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# House of Representatives

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord of salvation, Father of all, may the good news of Baghdad spread throughout the region of Iraq. Bind the wounds of a war-torn people as You lift the cloud of oppression and ignite the promise of a new day.

When the Iraqi people gather in their mosques and churches tomorrow and this weekend, may they find new reasons to offer You praise and thanks so that peace may descend upon their land and their families.

Lord, continue to protect and guide the coalition forces, that they may be transformed by Your power for building security and becoming witnesses to true freedom under the law.

Grant them perseverance and patience until their task is completed and they safely return home.

May all prisoners of war and all those still missing be found and be brought to light and reliable care.

To You, our God and Savior, do the Members of Congress and the Nation give the glory, now and forever.

Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Hampshire (Mr. BRADLEY) come forward and lead the House in the Pledge of Allegiance.

Mr. BRADLEY of New Hampshire led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 273. An act to provide for the eradication and control of nutria in Maryland and Louisiana.

The message was announced that the Senate has passed concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 31. Concurrent resolution expressing the outrage of Congress at the treatment of certain American prisoners of war by the Government of Iraq.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. There will be 10 one-minute speeches on each side.

## TEN COMMANDMENTS AND CHILD PORNOGRAPHY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, since March of last year, a shroud has covered a plaque on the front of the Chester County Courthouse in my District. By court order, a work crew placed a piece of sheet metal over the plaque which has hung on the wall of the courthouse for nearly a century. This week, the Federal 3rd Circuit Court heard arguments about the future of this plaque.

Mr. Speaker, something is very wrong with our courts in this country. They say that child pornography is perfectly legal as long as real kids were not hurt making it, but the Ten Commandments are so offensive we have to cover them up. I am not exaggerating.

Mr. Speaker, something is very, very wrong with America's court system when child pornography is protected, but the Ten Commandments have to be covered up.

The 3rd Circuit Court should do the right thing. They should allow the plaque to stay right where it is.

## IN GRATITUDE FOR THE SACRIFICE OF EDWARD SMITH

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to pay tribute to a fallen American hero. Edward Smith spent his adult life protecting his fellow citizens, first as a Marine and then as a reserve SWAT police officer in the Anaheim Police Department.

In January, he submitted his application to retire from the Marine Corps to become a full-time policeman in Anaheim when the Secretary of the Navy froze all retirements for Marines for 12 months. On January 31, he and his unit, the 2nd Tank Battalion of the 1st Marine Expeditionary Unit set off for the Iraqi theater.

Edward Smith and his company of 200 Marines were involved in a fierce firefight in Basra where he was killed in the line of duty.

I am sure my colleagues all join me in paying tribute to Smitty, as he was known by his friends and comrades-in-arms, and to express our condolences and our gratitude to his wife, Sandy, and his children, Nathan, Ryan and Shelby.

## BAGHDAD FALLS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I am here to congratulate General Tommy Franks, Chief of Military Operations, and our brave military forces. Of course, I also congratulate Secretary of Defense Rumsfeld, General Myers, and

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of course, President Bush and the administration.

I think everyone will remember where he or she was when the statue of Saddam Hussein came tumbling down. His atrocious regime is over, done.

And Mr. Speaker, there are many others I wish to congratulate today, but I want to remind everyone in the House that we should also congratulate everyone in this House of Representatives who voted for the Iraq resolution. It was the right thing to do.

## CONGRATULATING ST. JOHN'S AND MAGEN DAVID YESHIVA

(Mr. WEINER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEINER. Mr. Speaker, this has been a great time for student athletes from Brooklyn and Queens.

Earlier this month, St. John's won its record sixth National Invitation Tournament with a 70–67 comeback victory over Big East rival Georgetown. One cannot help but wonder what they would have been able to do if they had been given the bid to the NCAA Tournament that they deserved.

While St. John's has won many titles in its history, I also wanted to congratulate a school that just won its first, Magen David Yeshiva. This past month, the Warriors won their first championship in school history, defeating Ramaz of Manhattan 64 to 48 to claim the Metropolitan Yeshiva High School Athletic League crown.

In the championship game, Charles Chehebar led the way with 24 points on 10 for 16 shooting, including 18 points in the second half. Not surprisingly, he was the game's MVP. Team captain Maurice Levy added 13 points, making 63 percent of his shots in the second half, and Ralph Cohen also made it into double figures, netting 13 points. Of course many other players contributed to this unprecedented victory, and I wanted to take this opportunity to recognize these young men—Robert Abadi, Jack Beyda, Albert Braha, Albert Dayan, Eddie Dayan, Steven Fallas, Steven Gindi, Ralph Hasbani, Joseph Kameo, Isaac Kassin, Isaac Mizrahi, Steven Orfali, Irving Sassoon, Ovadia Setti.

Under the leadership of Head Coach Morris Dweck and Assistant Coach Danny Mizrahi, this was a particularly emotional win, since the team dedicated the game to the memory of Leo Chalom, a 2001 Magen David graduate who passed away less than a week before the championship game. A crowd of 1,500 recited a chapter of Psalms in his memory before the game, and I am heartened to know that the Warriors' victory was able to bring some solace and happiness to the members of the Magen David community who are working their way through trying times.

On behalf of the U.S. House of Representatives and all of the people of the city of New York, I offer my hearty congratulations to the Red Storm of St. John's and the Warriors of Magen David Yeshiva on their tremendous accomplishments.

## BROADBAND TECHNOLOGY

(Mr. PUTNAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PUTNAM. Mr. Speaker, a recent broadband technology decision by the Federal Communications Commission presents serious issues for rural America and the agricultural industry as a whole.

Perhaps no small- to mid-sized business sector has been more affected by technology than agriculture, where computer systems monitor crop production, satellites relay soil moisture information and cell phones coordinate efforts.

However, last year, when the House passed the Tauzin-Dingell bill, which would remove outmoded restrictions on local phone companies in exchange for aggressive system modernization and network build-out requirements, by adopting the business-as-usual stance, the FCC refused an opportunity to move in the direction that American agriculture and rural America has by adopting new technology, and instead attempted to require some companies to give deep discounts to their competition. Capital investment by these companies will suffer greatly in central Florida and throughout rural America.

Mr. Speaker, if local phone companies have little interest and no real incentive to invest heavily in urban and wealthy suburban areas, rural and small-town Americans will once again get the short end of the stick.

I join my colleagues on both sides of the aisle, including the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) in strongly urging the FCC to reconsider their position. Rural America needs the technological progress regulatory reform could bring.

## TRIBUTE TO IRA SPRING

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, every State has citizens who do something special, and the State of Washington has a gentleman named Ira Spring. Ira Spring is a great outdoor photographer who, along with Harvey Manning, published the famous 100 Hikes in Washington, a series of guidebooks which ignited the movement to protect the environment of our State because it introduced thousands of people to the outdoors and the tremendous forests in the State of Washington.

Ira has also mentored some of our best mountain climbers, including Jim and Lou Whittaker of climbing fame.

Ira's gone on now to establish a foundation to help introduce young people to the outdoors and encourage trail maintenance, and he is a fellow who we have tremendous respect for in the environmental community. And I just want to quote something Ira said the other day. He said, ''I feel you need a lot of people to become aware of their surroundings,'' and he is certainly right on about that, because he has dedicated his life to doing that.

We are protecting our forests and wildlands and using them to great enjoyment in the State of Washington. I say thanks to Ira.

## RECOGNIZING ERIN COLLINS

(Mr. GRAVES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAVES. Mr. Speaker, I rise today to proudly recognize Erin Collins, a very dedicated and enthusiastic member of my Washington, D.C., congressional staff.

Erin has served my office and other congressional offices for nearly 5 years as an intern, legislative correspondent, legislative assistant, scheduler and office manager. She has established a passion for working on the Hill. Erin holds dear the people she has worked with in her many roles as a Hill member.

I, and others, greatly appreciate Erin's hard work and commitment. Constituents have grown to know her attention to detail, her knowledge of so many issues and her personal touch that should not go unrecognized.

It is unfortunate for many that Erin will be leaving the Hill because she has left her unique stamp on so many people. However, her ultimate dedication to her soon-to-be husband and his duty of serving our country show great devotion and courage. We wish both of them nothing but the best.

Mr. Speaker, I proudly ask my colleagues to join me in commending Erin Collins for many important contributions to myself, my staff and those she has worked with and those she has served. She will be missed by many.

## CARIBBEAN NATIONAL FOREST WILDERNESS ACT

(Mr. ACEVEDO-VILÁ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACEVEDO-VILÁ. Mr. Speaker, today I will introduce the Caribbean National Forest Wilderness Act. This legislation is simple. It recognizes the vital importance and need for the conservation of the Caribbean national forests, the only tropical rainforest in the national forest system, and will designate approximately 10,000 acres of this forest as the El Toro Wilderness Area.

This year is the 100th anniversary of the Caribbean National Forest, and I can think of no better tribute than protecting the primitive nature of this forest for our future generations.

□ 1015

The Caribbean National Forest, known in Puerto Rico as El Yunque, contains many significant ecological and biological assets. The Puerto Rican parrot, one of the 10 most endangered birds in the world, calls El Yunque its home. In addition, the forest has 240 species of trees and 120 terrestrial animals, four of which are listed as endangered species. El Yunque sees nearly one million visitors per year and is an important provider of environmental education for tourists and Puerto Ricans alike.

Mr. Speaker, this same bill passed the House last year, and I appreciate the support of my colleagues. I would like to thank the ranking member of the Committee on Resources, the gentleman from West Virginia, and the other Members who have joined me as cosponsors of this legislation.

Wilderness is a fitting designation for these 10,000 acres of El Yunque, and I look forward to working with the Committee on Resources and my other colleagues to move this bill forward.

## SADDAM'S REGIME DESTROYED

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, yesterday, 3 weeks to the day after operation Iraqi Freedom began, the larger-than-life statue of Saddam Hussein in Baghdad's Paradise Square was torn down amid celebration by Iraqi citizens, an event very similar to the crumbling of the Berlin Wall. Promoted by President Ronald Reagan, this symbolic gesture signals the downfall of this totalitarian regime. The Iraqi people are certainly entitled to celebrate. Thirty years of brutal oppression are finally coming to an end thanks to the leadership and determination of our President, George W. Bush.

I applaud the coalition forces for their courage and a dedication beyond compare. The loss of American lives, though tragic, has been reduced, and our mission efficient and effective, as I saw in February when I was encouraged by visiting the troops in Kuwait.

Our thoughts and prayers are with the families who have suffered losses and our soldiers who continue to fight for the freedom of Iraq and an end to terrorism, which seeks to spread weapons of mass destruction against American citizens. It is our hope that the Iraqi people will be able to use the unique riches of their country to build a new life for themselves based upon the principles of freedom and liberty.

May God bless our troops, and may God bless the newly freed people of Iraq.

## UNITED NATIONS MUST CONDEMN MISTREATMENT OF U.S. POWS IN IRAQ

(Mr. BELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BELL. Mr. Speaker, I was a guest on a Houston radio show earlier this week; and during the course of the interview, the host of the program, Chris Baker, pointed out that Congress, along with the United Nations, has been rather silent on the issue of the treatment of American POWs in Iraq.

While that is not all together correct, I know most of our attention here has been focused on supporting the troops and hoping for a successful and speedy conclusion to the conflict.

Now that it appears the end is near, and there is cause for great optimism and excitement, we cannot lose site of the atrocities we have seen during the past 3 weeks. I know all my colleagues agree that the treatment of captured allied forces has been outrageous, and we must continue to speak up and insist that those responsible be brought to justice following the war.

We must send a clear message that America and the world will not tolerate the mistreatment of our prisoners of war. We expect the same treatment for our sons and daughters that we afford enemy soldiers when they are captured. Please join me in calling for the United Nations to take immediate action to condemn these heinous acts of miss treatments against our POWs.

## TRIBUTE TO RUTH GRIFFIN

(Mr. BRADLEY of New Hampshire asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADLEY of New Hampshire. Mr. Speaker, I rise to salute executive councilor Ruth Griffin, who is a native of Portsmouth, New Hampshire, and has been a long-time member of the executive council in New Hampshire as well as a dedicated public servant.

Ruth is receiving a lifetime achievement award tonight from the City Awards of the United States. Her long-time recognition in New Hampshire is unqualified by her success. She has served as a State senator, a State representative on local boards and commissions. She is a friend of many and has always been a dedicated servant of those less fortunate.

Mr. Speaker, I have had the pleasure of working with her for a number of years as a member of the New Hampshire legislature. I call her a friend and a mentor.

## IN MEMORY OF PRIVATE FIRST CLASS DIEGO F. RINCON

(Mr. SCOTT of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCOTT of Georgia. Mr. Speaker, as we watch television today, we see the wondrous and joyous faces of Iraqi citizens who have been liberated. But we must pause now and never forget the precious price that was paid through our brave and courageous soldiers who gave their lives so that Iraq could be free.

Today, I rise to give some remarks about one of those noble heroes who gave his life, Private First Class Diego Fernando Rincon, who was from the 13th Congressional District in Georgia and whose funeral will be held today, in just a few hours from now at 2 p.m., at the Seventh Day Adventist Church located in my district in Conyers, Georgia.

Mr. Speaker, this is the second funeral in my district in the last 4 days, and not only from my district but from the same town in my district, Conyers, Georgia. Specialist Jamal Addison, on Monday, we funeralized; and I was privileged to be there. And today, again, Diego Rincon. Unfortunately, I am not able to be there, but it is very important that we pause for a moment and give our respect to this fallen, but great, hero.

Private First Class Diego Fernando Rincon was the second Metro Atlanta soldier killed in the war in Iraq. Mr. Speaker, he was 19 years old. Private Rincon served as a member of the 3rd Infantry Division of the 3rd Army Mechanized. Private Rincon was killed in a suicide bombing attack at a U.S. Army checkpoint in Iraq on March 29, with three other soldiers from Georgia's Fort Stewart.

Private Rincon was born near Bogota, Colombia, and moved with his family to the United States when he was 5 years old. Private Rincon graduated from Salem High School in Rockdale County, Georgia, in 2001. He was a gifted actor, musician and cheerleader. A very creative and talented person.

Private Rincon has been awarded posthumously United States citizenship because, Mr. Speaker, this 19-year-old gave his life for this country, and yet he was not a citizen of this country. That is why we are here at this time putting legislation pending that will grant automatic citizenship for all foreign soldiers. What a great story.

I conclude, Mr. Speaker, with this: this great soldier fought the good fight, he finished his course, and he kept the faith. There is surely put up for private Diego Rincon an extraordinary crown of righteousness. God bless this great soldier, Private Rincon of the United States Army, a United States citizen, and God bless America.

## ARMED FORCES CITIZENSHIP ACT

(Mr. HASTINGS of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, I rise this morning to announce that I have just introduced legislation making it possible for every legal immigrant serving on active duty in America's Armed Forces to become a U.S. citizen immediately. Not in 3 years or 5 years, but immediately.

Once this bill is enacted, providing that all other requirements are met, on the same day that a young person is mustered into duty in our Armed Forces, he or she will be able to take the oath of office making them a citizen of the United States of America.

Mr. Speaker, these patriotic men and women have willingly volunteered to carry out one of the most solemn duties that any nation can ask of its citizens, the defense of freedom. Thus, more than most, I believe that they have truly earned their opportunity to become citizens of the country whose uniform they wear so proudly.

By enacting the Armed Services Citizens Act, America can do the right thing for some very brave men and women who are doing the right thing for America. So, Mr. Speaker, let us recognize their love of this country by enabling legal immigrants serving America's Armed Forces to become citizens before, not after, they begin risking their lives to defend ours.

## GETTING THE ECONOMY GROWING AGAIN

(Mr. WEXLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEXLER. Mr. Speaker, to get our economy growing again, we need policies that encourage investment and job creation, especially in high-technology industries like telecommunications.

Just this past month, FCC Chairman Powell tried to encourage more facilities-based competition in the local exchange markets. That balanced approach, however, was abandoned in favor of keeping most of the old rules and regulations, despite predictions that it would discourage plant upgrades, new network installation, and new jobs. Surprisingly, the White House was silent when the plans of its own FCC chairman were sidelined.

Mr. Speaker, the Clinton administration took a strong pro-growth, pro-jobs approach in the technology and telecom sector. The Bush administration, in contrast, seems wedded to an almost unchanging policy of benign neglect. I have over 50 facilities and 900 workers in my district that cannot tolerate this benign neglect. Under the present administration, America has lost $2 trillion in the telecommunication industry, computer investment has been erased, and 300,000 American technology workers have lost their jobs.

## TRIBUTE TO DENTON HIGH SCHOOL'S LADY BRONCOS

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, it turns out the third time was a charm for the women's soccer team of Denton High School in Denton, Texas. Mr. Speaker, I want today to recognize the Lady Broncos, Denton High School's women's soccer team, for winning their first State title this past Saturday.

Freshman Ashley Hornisher scored the game-winning goal after receiving a corner kick from sophomore Lisa Stephens in order to win the Class A State championship.

Coach Iseed Khoury, who led the Lady Broncos in a 28–2 season, said "This is the result of all the hard work our kids have put in over the years. We're a powerhouse now."

Denton senior Julie Naugher, a midfielder, was named the State tournament's Most Valuable Player. Ashley Wilson, a sophomore midfielder, sent a free kick from 40 yards out to Naugher in the box, who then headed the ball into the goal to tie the game in the first half.

Mr. Speaker, I especially want to recognize the Denton Lady Bronco seniors: Erin Cadenhead, Jennifer Dower, Julie Naugher, Annie Lowe, Callie Lawing, JennMia Nilsson, Katherine Clark, Christine Hornisher, and Bente Bekkhus.

I hope my colleagues will join me in honoring these fine young ladies and congratulating them on a season of hard work and commitment that paid off.

## CREATING NEW JOBS

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, I rise today to echo what other speakers on both sides of the aisle have talked about, talking about jobs, creating new jobs, saving jobs now in jeopardy as our economy continues to deteriorate.

I am privileged to represent one of the most ethnically diverse districts in the Nation. Jobs in my district prove that the American dream is alive and well and that anything is possible through hard work.

On February 20, the FCC had an opportunity to create and save jobs while boosting the economy. Since 2000, we have lost 2½ million jobs in this country. Instead, this decision means job losses in the long term, for the Nation's telecom sector and for my home State of Illinois.

The FCC's decision also means companies will not be able to make critical investments in the area of broadband deployment. It means an entire segment of the U.S. economy faces a future of uncertainty for its employers and customers. The job-loss message was heard loud and clear. One analyst of the industry wrote, and I quote, "Usually a decision of this magnitude would bring with it greater certainty and clarity. Yet, in this instance, we believe the issue is as confused and as uncertain as ever."

Mr. Speaker, I encourage the administration to remember that uncertainty leads to job loss, both on Main Street and on Wall Street.

## CITIZEN PATRIOTISM

(Mr. TERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TERRY. Mr. Speaker, perhaps more than ever in our Nation's history, at least since the Revolutionary War, our citizens are rising up to their responsibilities to be on guard and report suspicious behavior and activities. Often these patriotic deeds go unnoticed and unheralded. This is true of one such person in my district.

Harvey Rothman, a resident of Omaha, Nebraska, in 1987 was working as a trade specialist for the U.S. Department of Commerce. During that time, he received a phone call from a businessman who believed that some of his product was being delivered illegally to the country of Libya.

Based on that information, Mr. ROTHMAN brought the businessmen together with the Commerce's Department of Export Administration. That led to an investigation revealing that $275,000 in steel pipe was being diverted from Hanover, Germany, to the terrorist country Libya. As a result, an additional quarter million dollars' worth of product destined to this same terrorist country was canceled.

Mr. Speaker, I bring this story to the attention of the House now not to give Harvey Rothman a pat on the back, which he has deserved over these past many years, but because it is a wonderful example to all our citizens that their watchfulness and vigilance could save lives and stop our enemies from terrorist acts.

□ 1030

## GO HUSKIES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I rise to honor the UConn Huskies for winning their fourth NCAA women's basketball championship and their third in four seasons. The victory is inspirational because the Huskies overcame incredible odds, having only one starting player return from last year's championship team.

With this title victory, there can be no doubt that our Huskies are certain to be remembered as one of the greatest basketball teams in sports history.

The people of Connecticut are justly proud of their Huskies, who have set an example for us all with their teamwork and their standards of perfection. I know this victory was a team effort; but we are particularly proud of Maria Conlon from Derby, Connecticut, of the third congressional district, and Diana Taurasi, a fellow daughter of Italian immigrants, who was named the Final Four Most Outstanding Player and Consensus National Player of the Year after she scored the third most points in Division I tournament history, the fourth-most ever in the Final Four, and tied for second-most ever in a title game, all with an aching back, one good ankle and a heart whose size is only matched by that of the Huskies' dreams.

These women have shown that given the resources, they are just as talented and exciting to watch as any men's basketball team out there. They are role models for girls and boys alike across this Nation, and we should remember them as we debate title IX and its impact on women in this country.

Mr. Speaker, I congratulate the Huskies on their championship win and their incredible season. They have truly earned this recognition. Go Huskies.

## JUST BORN CELEBRATES 5OTH ANNIVERSARY OF PEEPS

(Mr. TOOMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOOMEY. Mr. Speaker, I rise to offer congratulations to the confectioners at Just Born, Incorporated, as they celebrate the 50th anniversary of one of their most recognized and celebrated products, not to mention my daughter's favorite, Marshmallow Peeps.

Just Born, with their Peeps, is a great American manufacturing success story. Over a billion Peeps are produced each year by Just Born's 400-plus employees. Their candies are exported to over 30 countries, making them available to over 1.5 billion people worldwide.

Innovation and dedicated employees have really been the source of the success of this company. Just Born was founded in 1923 in New York City by Samuel Born, a Russian immigrant. The company moved to Bethlehem, Pennsylvania, in 1932 and under the leadership of Bob Born, Samuel's son, Just Born acquired a candy company in 1953 which manufactured by hand a small line of 3–D marshmallow products. The innovative Bob Born mechanized the process of making Peeps and dramatically increased the quantity of Peeps manufactured each year. Peeps once took 27 hours to make, they now take 6 minutes.

It is this innovative, entrepreneurial spirit, and great workers that make American manufacturers the best in the world, and Just Born continues to lead the way among confectioners. If we do our part here in Congress to lessen government regulations, to expand trade opportunities and to lower taxes to encourage economic growth, we will see more success stories like Just Born, Inc.

Mr. Speaker, I congratulate Just Born and 3 generations of Lehigh Valley employees for sweetening America.

## CONFERENCE REPORT ON S. 151, PROSECUTORIAL REMEDIES AND TOOLS AGAINST THE EXPLOITATION OF CHILDREN TODAY ACT OF 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 188 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 188

*Resolved,* That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 151) to amend title 18, United States Code, with respect to the sexual exploitation of children. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Yesterday the Committee on Rules met and granted a ''normal'' conference report rule for S. 151, the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, or the PROTECT Act.

The rule waives all points of order against the conference report and against its consideration. Mr. Speaker, this should not be a controversial rule. It is the type of rule that we grant for every conference report that we consider in the House.

The PROTECT Act sends a clear message to those who prey upon children that if they commit these crimes, they will be punished. This legislation provides stronger penalties against kidnapping, ensures lifetime supervision of sexual offenders and kidnappers of children, gives law enforcement the tools it needs to effectively prosecute these crimes, and provides assistance to the community when a child is abducted.

To accomplish this, S. 151 establishes an AMBER Alert coordinator within the Department of Justice to assist States with their AMBER Alert plans. This coordination will eliminate gaps in the network, including gaps in interstate travel, work with States to encourage development of additional AMBER plans, and serve as a nationwide point of contact.

The AMBER program is a voluntary partnership between law enforcement agencies and broadcasters to activate an urgent alert bulletin in serious child abduction cases. The goal of the AMBER Alert is to instantly galvanize the entire community to assist in the search for, and the safe return of, that child.

I am pleased that this legislation also authorizes $20 million for fiscal year 2004 for the Secretary of Transportation to make grants to States for the development or enhancement of notification or communication systems along the highways. I am sure Members have seen those reader board signs. These signs are for alerts and other information for the recovery of abducted children. Doing this will enable all 50 States to implement this life-saving program, and we have seen several examples of it working lately to literally save children's lives.

For those individuals who would harm a child, we must ensure that punishment is severe and that sexual predators are not allowed to slip through the cracks of the system to harm other children. To this end, this legislation provides a 20-year mandatory minimum sentence of imprisonment for stranger abductions of a child under the age of 18, lifetime supervision for sex offenders and mandatory life imprisonment for second-time offenders; and we all know that is a very common occurrence.

This responds to the long-standing concerns of Federal judges and prosecutors regarding the inadequacy of the existing supervision period for sex offenders, particularly for the perpetrators of child sexual abuse crimes, whose criminal conduct may reflect deep-seated deviant sexual disorders, and they are not likely to disappear within a few years of release from prison.

Furthermore, S. 151 removes any statute of limitation and opportunity for pretrial release for crimes of child abduction and sex offenses. Oftentimes it is years later that sex offenses come to light because a child is afraid to speak out. That is why this conference report is so important. Not only does it come to the aid of the children after the abduction with the AMBER Alert, it aims to prevent the abduction with the provisions I just mentioned.

I also want to applaud the conferees for including legislation authored by the gentleman from Indiana (Mr. PENCE) that would punish those who use misleading domain names to attract children to sexually explicit Internet sites. It accomplishes this goal by increasing the penalties and provides prosecutors with enhanced tools to prosecute those seeking to lure children to porn Web sites. As a mother and grandmother, it is hard for me to understand how anyone can prey on a defenseless child.

Therefore, I urge my colleagues to support the rule and support the underlying bill. It is imperative for our Nation to protect our most valuable resource, our children.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, by passing this conference report today, Congress can finally end the 6 months of political maneuvering that have delayed my legislation to help set up a nationwide network of AMBER Alerts. The AMBER plan was named for a young girl, Amber Hagerman, who was kidnapped and murdered in Arlington, Texas, in my congressional district.

Make no mistake, this conference report is not perfect. It contains some needlessly controversial provisions dealing with our criminal laws. For that reason, some Members will oppose it.

The AMBER Alert Network Act, which I first introduced in the House of Representatives with the gentlewoman from Washington (Ms. DUNN) last year, should have been law long, long ago. It passed the Senate unanimously twice. The President made clear his support for it, and 230 Democrats and Republicans cosponsored it in the House, a clear majority. But for more than 6 months now, House Republican leaders refused to allow the House to vote on this bipartisan bill to protect America's children. And 2 weeks ago, 218 House Republicans ignored a last minute letter from the family of Elizabeth Smart and voted to support their leadership and block consideration of the stand-alone AMBER bill.

Mr. Speaker, it should not have been this hard; but we can now see an end to this matter. We now are about to finally enact this very important legislation.

We know the AMBER Alert system works. Since it was created in north Texas in 1997, it has helped recover 53 abducted children, five of them in the month of March alone. But it does not work where it does not exist. That is why the AMBER Alert Network Act, which this conference report includes, is so important because it will help set up a nationwide network of AMBER Alerts.

Mr. Speaker, this has been a long road, and a lot of dedicated Americans have worked very hard to pass this bill. In the House, the gentleman from Texas (Mr. LAMPSON), the gentleman from New Jersey (Mr. HOLT), the gentleman from Kansas (Mr. MOORE), and the gentleman from Utah (Mr. MATHESON), who represents the family of Elizabeth Smart, have worked very hard. I wanted to thank the Democratic members of the Committee on the Judiciary, especially the ranking member, the gentleman from Michigan (Mr. CONYERS), and the Subcommittee on Crime ranking member, the gentleman from Virginia (Mr. SCOTT), who have been extraordinarily helpful throughout this process. I also thank my friend and colleague, the gentlewoman from Washington (Ms. DUNN), who joined with me to introduce the AMBER bill in the House, and of course Senators KAY BAILEY HUTCHISON, DIANE FEINSTEIN, and HILLARY RODHAM CLINTON have done a marvelous job leading the effort in the Senate.

Outside of the Congress, much credit goes to the National Center for Missing and Exploited Children, to the National Association of Police Organizations, to Marc Klaas and the Polly Klaas Foundation, and to all of the organizations and individuals who worked to expand AMBER Alerts nationwide.

Finally, I want to personally thank Ed Smart, who in an extraordinary statement on the eve of the safe recovery of his daughter, Elizabeth Smart, spoke directly to the American public and this Congress and urged the prompt enactment of the AMBER Alert bill.

Mr. Speaker, this is long overdue. This will save children throughout the United States. I commend this legislation to this House and to the President.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the gentlewoman for her leadership on this rule, and I rise in support of the rule for S. 151, which is aimed at combating child exploitation and abuse. As cochair of the Congressional Missing and Exploited Children's Caucus with the gentleman from Texas (Mr. LAMPSON), I know full well the need for new and increased penalties and the need to expend more resources to enforce current law.

I would like to commend the work of both the gentleman from Wisconsin (Mr. SENSENBRENNER) and the conference committee for bringing this outstanding package to the floor today. With provisions like Two Strikes and You're Out for repeat child sex offenders, penalties for international sex tourism, the doubling of funding for the National Center for Missing and Exploited Children, expanding the relationship between the United States Secret Service and the National Center for Missing and Exploited Children, and of course the AMBER Alert Act, all make this legislation another nail in the coffin of those who prey on the most innocent in our society, our children.

Mr. Speaker, this bill will help bring pedophiles and others who intend to do children harm to justice. I would, however, like to take a moment to express some concern I have about one of the provisions that was put into the final package relating to the Volunteers for Children Act. This law, which the gentleman from Texas (Mr. LAMPSON) and I championed, was designed to provide further protection for our Nation's children by allowing youth-serving nonprofit organizations such as the Boys and Girls Club, the National Council for Youth Sports, and the National Mentoring Group to request national fingerprint background checks in the absence of State laws providing such access.

However, since the Volunteers for Children Act was enacted in 1998, only a very few States have complied with this law.

□ 1045

As a result, for the past year, I have been working towards a permanent solution with the Senate and the chairman to correct this problem once and for all.

Though I applaud both the chairman and the conference committee on recognizing the need to address this longstanding problem, the efforts to correct it leave much to be done. I hope that we can work with the chairman to provide the necessary protection to millions of children participating in both the local and nationwide after-school and volunteer-run programs by giving these groups the access they need to criminal background checks of their volunteers.

We have tried it in Florida. It has been immensely successful. It has been applauded by child advocate groups. It has been applauded by the FDLE, Florida Department of Law Enforcement's head, Tim Moore. We have used it extensively to provide protection for our children and volunteer organizations.

The fingerprint check is the only absolute way we can ensure that those working with our children are, in fact, clean of past histories that would cause them to come into difficult situations with our children.

Again, Mr. Speaker, I do offer my full support for the overall package and encourage my colleagues to vote for this rule and, of course, for the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), my good friend.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Florida for yielding me this time.

Mr. Speaker, I think it is well known that in the time that I have spent as a Member of this Congress, I have consistently supported legislation that will enhance the protection of our children. This year, we received an enormous shot in the arm when Elizabeth Smart was returned to her family, and I am reminded of the very potent words of her father in the early hours after her return, pass a straight up-or-down AMBER Alert bill, and that it was the community, including of course his wonderful young daughter, who really helped bring Elizabeth home. It was the community who began to hear the announcements and various citizens throughout his great State began to call in various information in order to help the police locate Elizabeth.

And so, legislation that this was supposed to be is a good effort. The AMBER Alert, nationalizing it, is a good effort.

It concerns me that there would be those who would undermine or diminish the importance of having a national AMBER Alert by suggesting that it was not enough, that there are many rural and urban communities and States that do not have the system and that this bill will help.

By and large, reluctantly I will ultimately be supporting the final passage of this legislation, but not the rule. I thought, when the conference met that we would reasonably understand that certain aspects this legislation are, in fact, destructive of our civil liberties and civil justice and criminal justice systems.

For example, I abhor pornography. I am reminded of the Supreme Court statement: I will know it when I see it. But there is certainly a question of the first amendment as it relates to virtual pornography, meaning that it is not an actual child; and clearly, under the rights of privacy, although I abhor it, though I hope no one is doing it on their jobs or in places that are inappropriate, virtual pornography is what it is, Mr. Speaker. It is clearly pictures depicted, and not of real and actual children, which would be absolutely intolerable.

Then we go to the next, I believe, offensive provision of this legislation which will cause me to vote against the rule, be it called for in a roll call or verbally, and that is the complete disrespect and insult to Article III, Federal courts, courts that have the oversight and affirmational confirmation process of the United States Senate and nomination by the President of the United States; the recognition that there are three branches of government; the three branches of government are administrative, executive, and legislative.

In this bill designed to ensure that our children can be found, we have taken the liberty of undermining and putting a spear, if the Members will, in the jurisdiction and discretion of our Federal courts, our Federal judges, by in fact requiring a mandatory directive as to what they should do with respect to child sex offense pornography and other sex offenses.

We are not in the courtroom, Mr. Speaker. We are not hearing the testimony.

As I indicated, I abhor violations against children and it is our responsibility to ensure their safety. Parts of this bill will do that. But to intrude upon Article III courts, I would say to my colleagues is dancing on very troubling ground and as we begin to undermine the court's jurisdiction here, the question is, what next, to the Federal courts whose lips are silenced because they are on the Federal bench?

I would encourage my colleagues to discuss this in their judicial conference and begin to assess what this Congress is doing, which is undermining the Federal judiciary.

It is my hope that someone somewhere, Mr. Speaker, will find a way to undo this legislation as it relates to the intrusion upon our Federal courts and the complete imploding of the separation of these powers and the disrespect that is being given to these courts not to allow them to have the discretion to make the appropriate decision for the defendant and the plaintiff and the State that is in the courtroom.

I ask my colleagues to vote against this rule.

Mrs. MYRICK. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I rise in support of the rule. The rule was actually necessitated over a debate about what this bill should include.

Some of the opponents of the rule suggested it should include just the AMBER Alert system, and as they well know, actually the AMBER Alert system has already been instituted by Bush administration. It reminds me of an experience that Adlai Stevenson shared when he was running for President in 1956. At the end of what he thought was a great speech of about 40 or 45 minutes, a woman from the audience came up and said, Mr. Stevenson, I thought your speech was simply superfluous. To which he responded, to test whether she really had a full grasp of the English language, Thank you, Madam; I am thinking of having it published posthumously, to which she replied, Wonderful, the sooner, the better.

Mr. Speaker, I applaud the gentleman from Wisconsin (Chairman SENSENBRENNER) in his effort to make sure that what we are doing today is not superfluous. The AMBER Alert system is wonderful at attempting to retrieve children that are kidnapped and transported over State borders, but it is already in effect.

What we have tried to do in the committee under the leadership of the chairman is to deter and punish people and put them behind bars for a long time, who are actually about to kidnap, abuse, or sexually offend against minors. That is what this bill ultimately did, thanks to the leadership of the gentleman from Wisconsin (Chairman SENSENBRENNER).

One of the provisions that has been added, I have a particular interest in. It has been referred to as the Feeney amendment. This bill with the amendment in it, as it has been modified in conference, addresses a serious problem of downward departures from the Federal Sentencing Guidelines by judges across the country. Although the guidelines continue to state that departures should be rare occurrences, they have actually proven to have been anything but.

The Department of Justice testified before the Subcommittee on Crime, Terrorism and Homeland Security that the rate of downward departures on grounds other than substantial assistance to the government has climbed steadily every year for many years. In fact, the rate of such departures is up by an overwhelming 50 percent in just the last 5 years alone. And by the way, the rate of departures downwards is 33 times higher than the rate the Federal judges depart upwards from the sentencing guidelines.

The Department of Justice believes that much of the damage is traceable to the Supreme Court decision in King v. United States. Actually, that decision has led to an accelerated rate of downward departures by judges.

What this bill now does is to contain a number of provisions designed to ensure a more faithful adherence to the laws of the United States, as passed by this Congress. Specifically, the amendment, as it was adjusted in conference, would put strict limits on departures for child crimes and sex offenders by allowing sentences outside the guideline only upon grounds that are specifically enumerated by the judge. This is important because it limits the judge's discretion, forces the judge to explain what he has done, and provides an opportunity for the prosecutors to appeal if the judge has been completely unfaithful.

There are a number of other reported provisions that are contained in the Feeney amendment. It calls for the Sentencing Commission to review and revise the departures from guidelines for all other cases that do not involve offenses against children, provides for the Department of Justice to have access to existing judge-identifying database maintained by the Commission, and it does also provide there will be a report to Congress every year by the Department of Justice reflecting the reforms of internal appellate review practices for these downward departures.

Finally, it provides that no more than three of the commissioners to the Sentencing Guideline Commission can come from the ranks of the Federal judiciary.

This is a great victory today. It is a great victory for children. It is a great victory for those of us who do not want to just retake possession of children that have been kidnapped or abused, but those of us who want to prevent the abuse and the kidnapping to begin with.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 3 minutes.

I would like to engage my colleague from Florida in a colloquy if he would be so inclined. I ask my colleague his understanding of the modifications that took place in conference, because Members have come to several of us asking us our understanding; and quite frankly, I am not clear and perhaps he can help us to understand whether or not it, in fact, was modified as it pertains to all sex crimes or was it modified to include just sexually exploited situations as it pertains to children.

Mr. FEENEY. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Florida.

Mr. FEENEY. Mr. Speaker, I am going to say to my good friend in that, in the first place, the primary source rule probably ought to be in effect here. I was not part of the conference committee, and what I have is a review of that.

I do note that the gentleman from Wisconsin (Chairman SENSENBRENNER) is on the floor, paying close attention; so at a minimum, I hope he will correct me for any deficiencies.

As I understand it, with respect to being more restrictive in terms of when Federal judges can depart downward from the guidelines, the original Feeney amendment actually applied to all Federal offenses. With respect to that downward departure restriction that we are doing now, it only applies to offenses against children, sex offenses, kidnapping, abuse, pornography. It does not apply to offenses outside that specific realm.

Mr. HASTINGS of Florida. Mr. Speaker, so the antiquated sexual offenses are not contemplated under the gentleman's amendment as he understands it?

Mr. FEENEY. As I understand what the conference committee report did, it is actually Hatch-Sensenbrenner-Graham, referring to Senator BOB GRAHAM, who is a colleague of ours from Florida. I am sorry, LINDSEY GRAHAM; it is tough when we have got too many Grahams running around.

In fairness to the gentleman, I should suggest that with respect to providing for de novo reviews of downward departures, that will apply to all Federal offenses, and the gentleman will remember the King v. United States case, the Rodney King incident where, for example, the Congressional Black Caucus was very concerned and issued a letter suggesting that we provide this de novo review; so I think we have got the best of both worlds.

Mr. HASTINGS of Florida. Mr. Speaker, I would urge my good friend from Florida, and he is my good friend, to take into consideration when we decry downward departures that the people that are on the firing line, the Article III judges, make those departures after very careful consideration.

□ 1100

Having served in that branch of government at one point and being an opponent, as almost universally the Federal judges were, of mandatory sentencing and sentencing guidelines, it is not to be taken lightly.

I agree with the gentleman that the appellate review is more than necessary and reporting regarding same should be important. But please do not take the downward departures to mean that the judges did not see something that we do not have an opportunity, when we make these laws, to clearly understand what the judge in fact saw and heard in the sentencing provision, or even in the trial.

I could cite numerous examples where downward departures have saved families and lives. I would hope my friend would understand that.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Mr. Speaker, I thank the gentlewoman for yielding time to me. I am grateful to the gentlewoman.

In the first place, the honorable gentleman has me at a disadvantage because he has been a member of the other part of our government, and I am respectful of the fact that he has some wisdom and insights that I do not.

I would suggest, however, that what we are doing here is not eliminating the ability of judges to depart from the sentencing guidelines; we are preserving their right and asking them to explain why they did so.

Finally, I would make the point to the gentleman that if the departure ratio was 33 times higher than sentencing guidelines, for every time that there is one below the guidelines, I would suggest to him that we might be hearing from the American Civil Liberties Union, the Criminal Defense Association, and the American Bar Association with a sense of outrage that people with disparate treatment are being abused by having too much sentences imposed on them.

By the way, historically in America there have been suggestions, and I do not have any studies to back it up, that racial and ethnic minorities have been particularly abused along those lines.

I would suggest we have struck a balance here.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

I would make the comment that the hope would be that we do not chill the Federal judiciary with departure restrictions. I think it would be a mistake on our behalf.

Mr. Speaker, I am pleased to yield 3 minutes to my good friend, the gentleman from Texas (Mr. LAMPSON), a gentleman who has been and continues to be a stalwart in the way of providing for the AMBER Alert, a leader in this regard.

Mr. LAMPSON. Mr. Speaker, I thank the gentleman for yielding me the time.

I want to rise in support of this conference report, and certainly to thank all of the people who have worked on it: the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Texas (Mr. FROST), for bringing the legislation; the gentlewoman from Washington (Ms. DUNN) on the AMBER Alert itself; and looking into the overall larger bill, which I became a cosponsor of early on, the work that the gentleman from Florida (Mr. FOLEY) has done on the Congressional Caucus on Missing and Exploited Children, along with me and about 150 other Members of the House of Representatives, as we have worked diligently to try to make a difference in this issue that deals with child protection.

I have spoken for 2 years on this issue and am thrilled to see the kind of interest that this has brought right now and the support it has brought from across our House of Representatives and the Senate.

We all know about the AMBER Alert and what it is and why it is such a good thing. So right now I really do not want to talk so much about it, but to talk about the larger role of who is playing a role in this overall effort: the Members of the House, the Senate, their staffs. The work that has been done in the last several months, I think, is extremely impressive.

Certainly, I would mention the National Center for Missing and Exploited Children and what they have done since their involvement in this issue for the last more than 20 years. There is the FBI, the Customs Service, and local law enforcement officials, as well as the media who also are a big part of the AMBER Alert.

I want to thank the families and friends of Laura Kate Smither, the little girl who was abducted and murdered in 1997, who actually was the inspiration for the Congressional Caucus on Missing and Exploited Children. I stand here today in honor of Laura and with the hopes that this important piece of legislation will prevent the abduction and exploitation of children across America.

I also rise in support of this conference report, because it helps the Secret Service continue its work on behalf of missing children. Nearly a decade ago, Congress authorized the U.S. Secret Service to participate in a multi-agency task force with the purpose of providing resources, expertise, and other assistance to local law enforcement agencies and the National Center for Missing and Exploited Children in cases involving missing and exploited children.

This began a strong partnership between the Secret Service and the National Center for Missing and Exploited Children and resulted in the Secret Service providing critical forensic support, including polygraph examinations, handwriting examinations, fingerprint research and identification, age progressions and regressions, and audio and video enhancements to the National Center for Missing and Exploited Children and to local law enforcement in numerous missing children's cases. They have indeed made significant differences.

However, there is a clear need to provide explicit statutory jurisdiction to the Secret Service to continue this forensic and investigative support upon request of local law enforcement or the National Center for Missing and Exploited Children. The Secret Service amendment, which was adopted and is part of the S. 151 conference report, will do just that.

I want to conclude and say, support the conference report. With the help of the Secret Service, these organizations will be able to continue their work.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I include for the RECORD two letters, one from the National Mentoring Partnership and the other from the National Council of Youth Sports, in support of this bill.

The letters referred to are as follows:

MENTOR/NATIONAL MENTORING PARTNERSHIP,
*Alexandria, VA, April 10, 2003.*

Hon. JIM SENSENBRENNER,
*House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER: MENTOR/National Mentoring Partnership is pleased to note that the Conference report of the ''Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003'' includes provisions to improve volunteer organizations' access to criminal background checks on prospective volunteers. MENTOR commends the Conferees for including these critical provisions, which are a step towards helping mentoring and other volunteer organizations effectively screen out those individuals who may harm rather than help a child.

Volunteer organizations that serve vulnerable populations—namely children, the elderly, and individuals with disabilities—require access to accurate, timely, and complete criminal background checks. If a background check does not meet these criteria, a human service organization could unwittingly hire or engage as a volunteer a person with a dangerous criminal past—such as child or elder abuse, molestation or rape, or a host of other offenses—to care for their clientele. That puts children and other vulnerable people needlessly at risk.

This is a vital issue for mentoring programs throughout the nation because the current system is simply not functioning. To get a nationwide check under current law, a volunteer organization must apply through their state agency. While a few states are responsive to these requests, in the majority of the states it is exceedingly difficult and often impossible to obtain a nationwide check. Many states have not authorized an agency to handle background check requests, or interpret federal law so narrowly that very few human service organizations are deemed eligible to apply for the checks. When a nationwide check can be performed, it is often prohibitively expensive and time-consuming.

The Conference report for the PROTECT Act includes a study that will assess the nationwide and state criminal background check system, and make recommendations on how to ensure that human service organizations can promptly and affordably conduct these important checks. The Conference report also establishes a pilot program to test out two possible methods of streamlining access to nationwide criminal record checks. The pilot program will enable mentoring organizations to receive nationwide checks and protect children while a reliable solution to this problem is found.

MENTOR, which serves over 4,000 mentoring programs throughout the country, believes that these provisions are an important step towards reliable, accurate, and timely criminal record checks for volunteer organizations. MENTOR urges Congress to support and promptly enact the criminal background check provisions included in the PROTECT Act Conference report.

Yours truly,

GAIL MANZA,
*Executive Director.*

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NATIONAL COUNCIL OF YOUTH SPORTS,
*Stuart, FL, April 8, 2003.*

DEAR CONGRESSMAN SENSENBRENNER: On behalf of the 38,000,000 boys and girls the National Council of Youth Sports (NCYS) membership represents, we extend a sincere thank you for your commanding efforts to press forward on the issue of background checks for volunteers. The NCYS proudly accepts being one of three organizations that will participate in the eighteen-month pilot project, within the Amber Alert bill, whereby 100,000 background checks (33,000 each) will be performed by the FBI.

We are grateful to each and every one of you for taking the first step in this vital child safety initiative. This is just the beginning, there is so much more that needs to be done. As we move forward we will want to work together to better understand some of the concerns. For example, while an $18 fee for a background check may sound reasonable and be acceptable in more affluent communities, an $18 fee in the economically disadvantaged areas is unaffordable and will leave our children unprotected from convicted sexual abusers. The underprivileged economic areas are often our most vulnerable programs allowing the predators to prey on the weakest. Therefore, it is not only our desire but also our fundamental responsibility to realize out determined goal for free, easily acceptable background checks regardless of one's economic circumstances.

The NCYS is a very strong and powerful group. A sampling of our membership consists of the national organizations of Little League Baseball, Pop Warner Football/Little Scholars, American Youth Soccer Organizations, Boys & Girls Clubs of America, Amateur Athletic Union, etc. We are prepared to mobilize our grassroots millions and move our public relations vehicles forward to secure a meaningful, sound and effective piece of child safety legislation for reliable and rapid background checks with one national database that is federally funded so that our innocent children will be protected from abuse and sexual victimization.

In the meantime, we are very anxious to begin the process through this pilot project. We look forward to working closely together as we all engage in a conscientious manner to provide our children the protection they deserve while living in America's neighborhoods that are safe and secure from convicted predators.

Respectfully,

SALLY S. CUNNINGHAM,
*Executive Director.*

Mr. Speaker, I yield 4 minutes to the gentlewoman from Washington (Ms. DUNN), the author of the AMBER Alert system.

Ms. DUNN. Mr. Speaker, I thank the gentlewoman for yielding time to me.

On behalf of The Ed Smart family, the Polly Klaas Foundation, the National Center for Missing and Exploited Children, and the thousands of families still searching for their missing children, I rise today to express my gratitude to the gentleman from Wisconsin (Chairman SENSENBRENNER), to the members of the Committee on the Judiciary, to the House leadership, and to my coauthor of the AMBER Alert, the gentleman from Texas (Mr. FROST), for working together, for joining together to make our work on AMBER Alert a reality.

The AMBER Alert program will contribute hugely to the safety and the well-being of our Nation's children. As a mother of two sons and soon-to-be grandmother, I join with all the parents and the grandparents in appreciating how critical it is to have all communities have the access and the full ability to protect their children from kidnappers who seek to harm our little ones.

To date, AMBER Alert has been credited with the safe recovery of 53 children. We know the AMBER Alert system works by allowing communities to tap into the resources of an educated public, to prepare local law enforcement, and engage the media in reuniting children with their loving families.

The media and an educated public, for example, were absolutely critical in the safe return of Elizabeth Smart to her family a few weeks ago. President Bush showed very strong and early support for our bill last year; and thanks to his good sense, he took the first steps by providing grants to States and localities to help establish local AMBER Alert programs.

It is now time for Congress to codify the AMBER Alert. We need to provide additional funding. We need to provide additional oversight to empower every single State and community with the tools and the resources to react quickly to child abductions and bring these children safely home to the arms of their parents.

I applaud the leadership and the commitment of both the House and Senate conferees for moving this bill through the legislative process so quickly so that it can arrive on the President's desk before the Easter break. All of us should be proud for enacting a law that will help prevent crimes against our most vulnerable citizens, our children. I urge my colleagues to support this important legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to my good friend, the gentlewoman from Ohio (Mrs. JONES), who was formerly a member of the Ohio judiciary.

Mrs. JONES of Ohio. Mr. Speaker, I would like to thank the gentleman for yielding time to me.

It is not often that we have the opportunity to use our prior experience to discuss a piece of legislation. For those who are not aware, I was a judge for 10 years in Cuyahoga County, Ohio, handling cases not only dealing with civil matters but also cases where the death penalty could in fact be imposed.

I am the former district attorney for Cuyahoga County, Ohio, where I prosecuted cases with a staff of 180 lawyers for 8 years, and now I get to the third branch of government, the legislative.

I recognize that often in response to incidents or occurrences we want to jump up and pass legislation that we think will have a deterrent impact. But I say to Members, as one who has not only enforced the law but has been required to impose sentences, that a response of placing another mandatory sentence on the books of these United States is not the appropriate response. Judges need discretion. Judges need the opportunity to assess the facts, look at the law, and impose the appropriate sentence.

I support AMBER Alert. I wish that in the many cases that I had and I prosecuted for 8 years that we had an AMBER Alert system; and I am confident that many more young people across the country would have in fact been returned to their families had we had the system. I am 100 percent in support. I speak out in favor of it.

Let me talk about something else: eliminating pretrial release. There is in our country a presumption of innocence. Most recently, we have seen so many people who as a result of DNA examination have been taken out of prisons across this country. To eliminate a pretrial release again takes away the discretion of a judge who has an opportunity to look at the facts and circumstances and ought to be able to determine whether or not a person should be released on pretrial release.

Finally, let me speak on the Three Strikes and You are Out. The fact is, in many instances across this country where we have imposed Three Strikes and You are Out, we have young men and women who are imprisoned on offenses, and the third strike may have been the least serious of the three, or two, and they are in jail for life.

I do not take lightly offenses that people commit, and I have imposed as a judge punishment on some of the most serious offenses. But we have to keep in mind the need to have judicial discretion, the need to look across the country at families whose lives have been destroyed forever because people are placed in jail.

Most recently, there was a study that was released that talks about the significant number of African Americans in prison across the country, and in addition, the significant number of Americans, regardless of their race or color, that are in jail. Let us think about mandatory sentences. Let us support AMBER Alert, but keep in mind, we all believe in rights.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I am pleased to see that this conference report for this crime bill came back to the floor so quickly. Let me say as a cosponsor of this legislation that this bill includes some very important provisions that will help States and will help the Bush administration to continue their efforts to expand and improve the AMBER Alert system.

As we know, last fall the President provided a total of $10 million to develop AMBER training and to develop education programs to upgrade the emergency alert system. As we have witnessed, AMBER Alert has worked to bring children home safely.

I wanted to share one example of where this alert has worked well. That is the case with Nicole Timmons of Riverside, California, in my State. The alert was not only delivered throughout California, but luckily, the neighboring State of Nevada also ran the alert. As a consequence, an alert driver noticed that Nicole matched the description. He thus, within the first few hours, contacted authorities. She was returned safely to her parents.

The point here is that they say three out of every four children who are murdered by their abductors are killed in the first 3 hours. That is why speed is of the essence. That is why a nationwide system is needed to ensure that neighboring States and communities will be able to coordinate when an abductor is traveling with a child to other parts of the country.

We need an organized national effort so abducted children transported across State lines can be returned to their parents, to their families, as 53 have been safely in California and other States that have now adopted the AMBER Alert system.

Mr. Speaker, I thank all of those who have worked to make certain that this legislation becomes law.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

□ 1115

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today to talk about one particular provision that I am very pleased to say has been included in this conference report, though there are several others I strongly support and others about which I have already expressed my concern.

Section 611 establishes a program for transitional housing assistance for victims of domestic violence and sexual assault. My colleague from the other body, the senior Senator from Vermont, and I have introduced companion legislation establishing a transitional housing grant program. Today, I want to acknowledge and thank the Senator for working so hard to successfully get the language from these bills included in the conference report.

We are trying to protect children from violence. The AMBER Alert system is certainly one way to do it, but unfortunately, children are exposed to violence in their own homes. The transitional housing program is often the link between emergency housing and a victim's ability to become self-sufficient.

Transitional housing not only provides a roof and a bed, but it offers supportive services, such as counseling, job training, access to education, and child care. These tools are critical to allowing women to get back on their feet and to be able to support their children in a home that is free from violence. And we are also then able to get children out of homes where they may have been the victims and or witnesses of abuse.

Now, it is essential that we not only pass this bill, but that we have appropriate the $30 million provided in this legislation for transitional housing. The women and children of this country deserve nothing less, and I urge my colleagues to votes ''yes'' on this conference report.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, this conference report contains several important provisions that protect the most vulnerable among us, that is, our children.

One of those provisions is an amendment I offered to the bill, which was approved by a vote of 406 to 15. That provision addresses the Supreme Court decision in Ashcroft v. Free Speech Coalition, which held that the Federal law to combat computer-generated pornography was too broad.

The overturning of this law to combat child pornography has emboldened those who abuse children. A General Accounting Office report just 2 weeks ago found that in the wake of the Supreme Court decision, child pornographers are now increasing their presence on the Internet and are engaging in their depraved actions with relative ease.

The Internet has proved a useful tool for pedophiles and sex predators as they distribute child pornography, engage in sexually explicit conversations with children, and hunt for victims in chatrooms. Unfortunately, the new playground for child pornographers is the Internet.

Mr. Speaker, every parent should be concerned about what their children see and do on line. We need to protect our children. If this legislation becomes law, child pornographers will be deterred or prosecuted. I hope my colleagues will again vote to reduce child pornography on the Internet and support this legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, several measures are brought to the attention of the body, and specifically they are now known as the Feeney amendment. I may be able to add a little clarity by putting forward that the bill, the bill as it is presently before us, that this particular rule is contemplating, establishes de novo appellate review of departures, prohibits downward departure on remands based on new grounds, requires government motion for extra one-level adjustment based on extraordinary acceptance of responsibility, and prohibits the Commission from ever altering this amendment.

It chills departure by imposing more burdensome reporting requirements on judges who depart, and gives the Department of Justice access to Commission data files that identify each judge's departure practices. And it requires the Department of Justice to report downward departures to Judiciary Committees, unless within 90 days the Attorney General reports to Congress on new regulations for opposing and appealing downward departures.

Our colleague, the ranking member of the Committee on Rules, the gentleman from Texas (Mr. FROST), as well as our colleague on the other side of the aisle, the gentlewoman from Washington (Ms. DUNN), and many Members of this body have worked very hard to ensure that we have the AMBER Alert, which has proved itself to be more than useful in our society for a very, very important and worthy cause.

That said, it is unfortunate that in this particular measure for AMBER Alert, some ill-conceived, maybe unconstitutional, very restrictive measures have been put forward in the substantive bill.

With that, I would urge Members to pay particular caution to the rule itself, and when they examine voting for AMBER Alert, to be mindful that there are a number of provisions that they are voting for that are not just covered by the headline, but are covered by the rights of individuals in our society and the rights of the members of the judiciary who have a firsthand opportunity to make a determination as to what should be done in the way of sentencing.

When I served in the judiciary, one of the things that I was proud of was exercising discretion in a meaningful manner, and I always tried to err on the side of reconstructing families. I think this legislation is prohibitive in many respects. And I think no less an authority than Associate Justice Antonin Scalia, in his remarks very recently, said to us that mandatory sentencing can and, in fact, has led to an increase in the significant number of persons in our society, 2 million now in America, that are in prison.

We make these laws and we talk all the time about unfunded mandates, and we make these laws without fully realizing the implications as to what may transpire once they are made. The Federal judiciary will be impacted by what we do in the name of something that is the right thing to do, AMBER Alert.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in support of this rule and the conference report on the PROTECT Act of 2003. It contains the best ideas to prevent and punish sexual predation against our American children.

First and foremost, it establishes that nationwide AMBER Alert system to help States deploy child abduction warning networks all across this country. But rather than simply helping local authorities rescue abducted children, this legislation will toughen the law to make abductions and abuse less common in the first place.

It establishes a two-strikes-and-you're-out policy for child sex offenders, ensuring habitual predators will not be tolerated in our communities. It allows judges to extend court-supervised release for sex offenders, so after they have finished their time in prison, authorities will be able to keep close tabs on these dangerous individuals. This bill will add child abuse and child torture to the legal predicate for first degree murder. It increases the penalty for sexual exploitation and trafficking of children for kidnapping and other related atrocities.

In addition to supporting this landmark legislation, Mr. Speaker, I also rise to commend my friend from Wisconsin (Mr. SENSENBRENNER), for his determination to do this job right. This is the most comprehensive child protection legislation the House has ever considered, and we have one man to thank for it, and that is the gentleman from Wisconsin (Mr. SENSENBRENNER).

Thanks to the gentleman, in the face of a sensational public debate that demanded immediate action, House Republicans stood up for America's kids, not the television cameras. He knew that this legislation must be based on good ideas and good law, not P.R. He knew that we needed to reform the criminal code and send a very clear message that the United States will not tolerate the abuse of our children.

His bill takes crimes against children very seriously. It will prevent crimes against children and punish those who commit them. So, Mr. Speaker, the gentleman has stood like a rock in the middle of a political and media storm. America's children will be safer when this bill becomes law and thousands of them whose names we will never know will owe their lives to the gentleman.

I thank the gentleman, and I urge our colleagues to support the conference report and this rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, most respectfully, the majority leader's comments are taken not lightly by any of us. But I would urge that we understand that this law that we are passing establishes new separate departure procedures and standards for child-related offenses and sex offenses. Permissible departures are those that the Commission specifically enumerates. It limits age and physical impairment departures in child and sex cases. It prohibits gambling dependence in child and sex cases. It prohibits aberrant behavior departures in child and sex cases. It prohibits family ties departures in child and sex cases. And one that is particularly troubling, because I saw this case in my past responsibilities, it prohibits diminished capacity departures in child and sex cases.

Everything is not as cut and dried as we would have it be, and I urge Members, while supporting AMBER Alert, to be mindful that we are supporting a number of provisions that would be addressed by the court system for some time to come.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H. Res. 188, the Rule governing debate on S. 151, the Prosecutorial Remedies and Other Tools to end the exploitation of Children Today Act of 2003, also known as the PROTECT Act.

I oppose this rule because this should be a clean AMBER Alert bill, and I oppose the extraneous provisions in the Conference Report. The unnecessary provisions do more than delay the passage of an AMBER Alert bill. Many of the provisions violate the Constitutional principles that are the backbone of our government. Provisions like the Feeney provisions that establish rigid sentencing guidelines and strips federal judges of their discretion to make fair sentencing determinations.

The Feeney provisions establish separate departure standards for child-related offenses and sex offenses that must be followed by district courts. The provisions also prohibit sentencing departures for gambling dependence, aberrant behavior, family ties, and diminished capacity in child and sex cases. The provisions limit age and physical impairment departures in child and sex cases.

These provisions are a slap in the face to Article III, which grants federal judges, not Members of Congress, the power of the judiciary. This is another example of the Congress inappropriately attempting to interfere in the operation of our judicial system. Congress should legislate and leave judicial decision making, like prison sentences to the courts.

Also troubling is the ''virtual'' child pornography provision that labels, ''a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct.'' This provision contradicts the Majority opinion of the Supreme Court of the United States, who found that legislative attempts to include computer-generated images involving no real children in the definition of pornography are overboard, a violation of the First Amendment right to free speech, and therefore, unconstitutional.

These provisions violate the Constitution and distract our attention from the most important element of the Conference Report: the AMBER Alert System. The AMBER Alert system is a program supported by members of both parties in both Chambers of Congress, not to mention every American citizen. Despite this almost universal support of AMBER Alert, the Conference Report has been bogged down with extraneous, unconstitutional amendments.

I am stunned that so many members of Congress have stubbornly demanded Amendments to what should be a clean AMBER Alert bill. By so doing they postpone the establishment of a national AMBER Alert system and put the lives of America's children at risk.

For this reason, Mr. Speaker, I oppose H. Res. 188.

Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 188, I call up the conference report on the Senate bill (S. 151) to amend title 18, United States Code, with respect to the sexual exploitation of children, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to House Resolution 186, the conference report is considered read.

(For conference report and statement, see proceedings of the House of April 9, 2003, at page H2950.)

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT), each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report for S. 151.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report contains provisions of H.R. 1104, the Child Abduction Protection Act, which overwhelmingly passed the House 410 to 14 less than 2 weeks ago, and the provisions of S. 151, the PROTECT Act of 2003, which passed the other body 84 to nothing on February 24.

□ 1130

Over the last several days, during the course of lengthy staff meetings and an open, working meeting of conferees, we have worked diligently to resolve differences between the House and the Senate. I believe we were successful in crafting a bipartisan conference report that recognizes a comprehensive effort is needed to better protect children. In order to accomplish this, the legislation includes provisions to help prevent crimes against children, to assist in the safe recovery of abducted children, to enhance the investigations and prosecutions of these crimes, and to ensure that the offenders are held accountable and unable to repeat these crimes.

An abducted child is a parent's worst nightmare. We must assure that law enforcement in our communities have every possible tool to prevent abductions in the first place, and when an abduction occurs, to recover a missing child quickly and safely, and to ensure that the criminal receives sure and swift justice, including an appropriate sentence in prison.

The overarching goal of this comprehensive package is to stop those who prey on children before they can harm children. This is accomplished by destroying the illicit markets that encourage exploitation and abduction of children, strengthening penalties to reflect the seriousness of these crimes, halting repeat offenders, and enhancing law enforcement agencies to effectively prevent, investigate and prosecute crimes against children.

For instance, this legislation responds to the April 16, 2002, Supreme Court decision in Ashcroft v. The Free Speech Coalition that struck down a 1996 law written to combat computer-generated pornography. As the president for the National Center for Missing and Exploited Children stated, ''The Court's decision will result in the proliferation of child pornography in America unlike anything we have seen in more than 20 years.''

Congress has an obligation to prevent the resurgence of the child pornography market. This conference report will help do so by amending the definition of computer-generated child pornography so that it will withstand a constitutional challenge.

Additionally, the conference report provides strong support to recover abducted children quickly and safely through a prompt and effective public alert system. Such a system can be the difference between the life and death for that child.

To accomplish this, the conference report codifies the AMBER Alert program currently in place in the Departments of Justice and Transportation, and authorizes increased funding to help States deploy a child abduction communication warning network. While our goal must always be to prevent the abduction of the child before it occurs, our communities should also have an effective and responsive AMBER Alert system to assist in the quick and safe return of the kidnapped child.

I am happy to report that this compromise legislation doubles the authorized funding for the National Center for Missing and Exploited Children, the Nation's resource center for child protection, to $20 million a year through 2005. The center assists in the recovery of missing children and raises public awareness of ways to protect children from abduction, molestation, and sexual exploitation.

Another vital component in the effort to protect children are strong laws that hold the criminal accountable. Those who abduct children are often serial offenders who have already been convicted of similar offenses. Sex offenders and child molesters are four times more likely than any other violent criminal to repeat their offenses against children. This number demands attention, especially in light of the fact that a single child molester on average shatters the lives of over 100 children.

Under this legislation, sexual predators will no longer slip through the cracks of the system and harm other children. To this end, the legislation provides a 20-year mandatory minimum sentence of imprisonment for non-familial abductions of a child under the age of 18, lifetime supervision for sex offenders, and mandatory life imprisonment for second-time offenders. The compromise legislation restricts the opportunity for pretrial release for crimes of child abduction and sex offenses and extends the statutes of limitation.

Finally, this conference report contains provisions to address the long-standing and growing problem of downward departures from the Federal sentencing guidelines. Outrageously, between 1996 and 2001, U.S. courts have lowered the sentences of one out of every five of those convicted of sexually abusing a child or sexually exploiting a child through child pornography.

Strong sentencing is an essential component in any effort to fight crimes against children. All of our efforts in this bill and in previous anticrime measures are fruitless if, at the end of the day, judges are permitted to give offenders a slap on the wrist, which is exactly what is happening today with increased frequency.

I am proud of the efforts of the conferees to quickly send this legislation to the President. It was a fair and open process, and the exhaustive negotiations yielded extensive changes to the base text of the legislation that passed the House. Most of these changes were made to accommodate the concerns of my colleagues in the minority party, both in the Senate and in the House.

I am extremely proud of the extraordinary effort my now-weary staff expended to help craft this conference report and to get to it the floor today. I would like to extend special thanks to Sean McLaughlin, Will Moschella, Beth Sokul, Jay Apperson and Katy Crooks of the Committee on the Judiciary staff. Their dedication is greatly appreciated.

The bottom line is that this comprehensive legislative package will crack down on child abductors, build and expand on the work of the National Center for Missing and Exploited Children, give Federal authorities additional tools to prevent and solve these horrific crimes, and provide meaningful sentencing reform for all crimes. I urge my colleagues to protect America's children from the worst predators in our society by supporting this bipartisan child protection legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SCOTT of Virginia asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. SCOTT of Virginia. Mr. Speaker, the conference report before us started out as an effort to quickly pass AMBER Alert, a bipartisan noncontroversial provision which had already passed the Senate. I am a cosponsor of the House version of the AMBER Alert so I am anxious to see that it be passed because it has been actually shown to help children. It will codify a program of grants and assistance to States and localities to establish a national communications system so that abducted children can be saved. As the gentleman from Wisconsin pointed out, that system works.

However, the bill now before us is loaded down with an array of crime sound-bite provisions that make the AMBER Alert bill just an afterthought in the legislation. The bill that has gone through the conference process, some provisions have been improved, some have been made worse; but I am unable to support the conference report at this time.

Mr. Speaker, the bill retains egregious provisions that expand the Federal criminal laws into areas traditionally left to State criminal laws. It expands the death penalty, despite the fact that almost 70 percent of death penalties imposed in the United States are found to be erroneous and the fact that over 100 people sentenced to death in the last 10 years have been subsequently shown to be innocent.

250 Members of the House, many supportive of the death penalty, have sponsored the Innocence Protection Act to provide reasonable assurances that fewer innocent people will be put to death. So we should certainly not be adding more death penalties before this act passes.

There are numerous provisions in the bill that create new mandatory minimum sentences, including the baseball-based sound byte, ''two strikes and you're out,'' which mandates life without parole for a second-offense requirement involving a minor. The offenses covered by that provision fortunately have been limited through the conference report process by eliminating some of the minor offenses involving a minor child, but it still includes as a child sex offense some consensual acts between teenagers.

The bill also adds a 5-year mandatory minimum for first offense crimes that are Federal crimes only because a person crosses State lines, such as when an 18-year-old and a 17-year-old conspire to cross State lines from Washington, D.C., to Virginia to have consensual sex. Just to show my colleagues how bizarre that provision is, if children are conspiring to cross from Virginia to Washington, D.C., to have sex, it would not be a child sex offense, and that is because consensual sex outside of marriage is not a crime in Washington, D.C., while it is in Virginia.

The bill also provides for a new wiretap authority in many of these cases including consensual sex and including some of the activities that do not even constitute a crime, and in some of those crime cases, bail may be denied during trial.

Of course, we are supposed to expect that prosecutors will ignore the law to carry mandatory minimum terms and not bring those cases. The reason we have mandatory minimums in the first place is because judges cannot be trusted to determine who should be sentenced to life and who should be sentenced to less, so we give everybody a life sentence. So our prisons are filled with people today who are serving time because they were convicted of just tangential involvement in somebody else's drug trade and end up serving more time than bank robbers.

We should let the sentencing commission and judges determine the appropriate sentences. Mandatory sentences have been criticized because they often require sentences which violate common sense in some cases, and that is why the Chief Justice of the Supreme Court is a frequent critic. Not only do we mandate numerous mandatory minimums without regard to what the individual circumstances of the case might be, but one amendment, the Feeney amendment, reduces the discretion of the sentencing commission and judges to robot-like conformity without regard to how the sentence compares to equally serious offenses, nor does it recognize that circumstances can vary from one case to another.

There was a dramatic effort to fix that amendment, representing a brand-new version at the conference committee meeting, but it was ineffectual, as well as rife with errors. In just a cursory reading of that amendment, which was first seen by some of us at the meeting itself, it became clear that it had several major unintended effects. For example, it removed consideration in sentencing for exemplary military service. Another bizarre exchange occurred in which we were told that the word ''and'' actually meant ''or'' and it did not matter whether you had ''and'' or ''or.'' I do not know when the change took place, but the version before us now has the word ''or'' instead of ''and.'' Nevertheless the amendment still reduces the judge's ability to make the punishment fit the crime.

Most cases are sentenced within the sentencing guidelines range; and according to the American Bar Association, 79 percent of the departures from the guidelines are agreed to by the prosecution. I would like to insert the letter from the ABA into the RECORD at this point.

AMERICAN BAR ASSOCIATION,
*Chicago, IL, April 9, 2003.*

DEAR SENATOR: I write on behalf of the American Bar Association to express deep concern about the Feeney amendment, which has been incorporated in the conference report to accompany S. 151, legislation to ban ''virtual'' child pornography. Although we are pleased to see that some of the more offensive provisions of this amendment were modified in conference, we continue to believe that this provision would fundamentally alter the carefully crafted and balanced system established by the Sentencing Reform Act, without any of the customary safeguards of the legislative process. Indeed, to the extent the amendment would give prosecutors a unique and absolute power to check the discretion of sentencing judges, it would have an unsettling effect on the constitutional balance of power.

The Feeney amendment would legislatively overrule a decision of the United States Supreme Court, United States v. Koon, 518 U.S. 81 (1996), and amend central provisions of the Sentencing Reform Act of 1984. It would void numerous sections of the Federal Sentencing Guidelines, and, for the first time, amend the Guidelines by direct legislation. It would preclude the exercise of judicial discretion in certain cases, and make judicial departures in all cases subject to de novo appellate review. It would impose very troublesome reporting and oversight requirements on judges that will certainly have a chilling effect on judicial independence, and discourage the imposition of just sentences in many cases.

Should Congress enact the Feeney amendment, all these dramatic changes would be accomplished through a House floor amendment to an unrelated bill, adopted without committee hearings by either the House or the Senate, or the benefit of consultation with the U.S. Sentencing Commission, the federal judiciary, or the organized Bar.

The Feeney amendment is evidently a response to the perception that judges have engaged in widespread abuses of their departure power following the Supreme Court's Koon decision in 1996. Based on the Sentencing Commission's statistics, I believe there are reasons to doubt the accuracy of this portrayal.

Although sentences below the guideline range are now more common that in the early days of guidelines sentencing, the primary responsibility for this result lies with the Department of Justice. In FY 2001, of 19,416 downward departures awarded federal defendants, approximately 15,318 came on government motion. Put another way, in 2001, 79 percent of downward departures in the United States were requested by the Government.

Similarly, although the rate of non-substantial assistance departures has increased since the Koon decision, the vast majority of that increase is attributable to the fact that the number of departures in the five ''fast-track'' border districts more than tripled, from 1871 to 1996, to 5928 in 2001. In short, the increased rate of non-substantial assistance departures since Koon is due primarily to requests for such departures by the Department of Justice.

The foregoing figures do not, of course, present the whole picture. The percentage of judicially initiated departures has increased somewhat since Koon. It may well be that some judicially initiated departures are inappropriate and that some action to curb inappropriate judicial departures should be considered. However, it would seem advisable to determine the nature and extent of any problem with judicial departure power before legislating a virtual end to that power. As Senator Hatch wisely observed some years ago: ''[C]ongressional policy makers must take advantage of the most current and complete information available when making legislative decisions. Whenever possible, Congress should call upon those with relevant empirical research, encouraging those most knowledgeable of and most involved with the guidelines—judges, prosecutors, practitioners and the Commission—to express their views.''

I am informed that the U.S. Sentencing Commission is even now in the midst of a study of judicial departures in white-collar crime. Would it not be prudent to direct the Commission to extend that study to departures generally and report promptly to Congress on its results? (I understand that the General Accounting Office has also undertaken a study of departures, at the request of the House Judiciary Committee.) Such a congressional directive could also instruct the Commission to develop proposals to address any deficiencies revealed by the study. Once armed with full information, Congress could determine the true nature and extent of any problem, and could, if necessary, craft an appropriate, measured legislative response to any deficiencies in departure practice left unaddressed by the Commission.

The American Bar Association is confident that a period for study of current departure practice would not only yield a more accurate picture of any problems that may exist, but could not fail to produce a better solution than the Feeney Amendment.

The Sentencing Reform Act of 1984 created a system of distributed authority that was designed to ensure fair, predictable sentences for defendants convicted in federal court. As contemplated by the Act itself, the Guidelines drafted by the Sentencing Commission and approved by Congress channel judicial sentencing discretion, but they do not eliminate it. This system reflects two truths about the process of making sentencing rules. First, no set of rules can anticipate the circumstances of every individual defendant. Accordingly, if justice is to be done, judges must retain the flexibility to determine that some defendants do not fit the mold envisioned by the Commission. Second, the departure power is a means of providing feedback from judges to the Sentencing Commission and Congress. By studying departure patterns, the Commission can identify those guideline rules that judges are consistently finding to be inappropriate for certain classes of defendants.

In the Sentencing Reform Act, Congress conferred upon Federal judges the power to depart whenever ''there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines'' in the enabling legislation that created the U.S. Sentencing Commission, 18 U.S.C. §3553(b). The Feeney Amendment is inconsistent with the original judgment of Congress about the necessity and value of a guided departure power and the important role of judges in Federal sentencing. If passed, the Amendment would severely compromise critical institutional features of the Federal sentencing system.

By curtailing and burdening judicial departure authority, the Feeney Amendment strikes a blow at judicial independence and sends an unmistakable message that Congress does not trust the judgment of the judges it has confirmed to office.

By overriding the Sentencing Commission and legislatively rewriting the Guidelines, the Feeney Amendment threatens the legitimacy of the Commission. The Commission was created by Congress to ensure that important decisions about Federal sentencing were made intelligently, dispassionately, and, so far as possible, uninfluenced by transient political considerations. Congress should accord the Commission and its processes some deference unless and until the Commission has demonstrably failed in its duties.

By bypassing the deliberative processes of Congress itself, the Feeney Amendment reflects a profoundly troubling disregard of the legislature's role in establishing Federal sentencing policy. If passed, the Feeney Amendment would alter core features of Federal criminal sentencing and appellate practice. Yet the Amendment has never been the subject of a hearing in either the House or Senate, and neither house has had the benefit of meaningful consultation with any of the institutions most affected by the Amendment.

The American Bar Association is firmly committed to the maintenance of a just and effective Federal sentencing system. I am confident that you and your colleagues will give the Feeney Amendment the careful scrutiny it requires. I am hopeful that such scrutiny will lead you to oppose the Feeney Amendment and to support a careful study of judicial departures by the Sentencing Commission. . . .

The bill before us defiantly enacts laws prohibiting such acts as what is called ''virtual child pornography.'' The United States Supreme Court gave us a bright-line test to determine whether or not computer-generated images can constitute illegal child pornography. The Court said that if the image is not otherwise obscene it must involve real children in the production to be illegal. Pornography which was produced without real children under the Ashcroft case is not illegal.

In a direct violation of that case, this bill prohibits such images, whether or not it was produced with real children, unless the defendant can prove his innocence.

The Court, of course, dealt with that issue and said that we could not require a defendant in an American judicial court to prove his innocence, so that provision is clearly unconstitutional.

Mr. Speaker, we have a number of problems with this case, including the mandatory minimums. I just want to point out that the Chief Justice of the United States Supreme Court, United States Judicial Conference, the Sentencing Commission, the American Bar Association, the Federal Bar Association, the Leadership Conference on Civil Rights, the Washington Legal Foundation, the CATO Institute, and a host of other sentencing and judicial system experts have pleaded with Congress not to impair the ability of courts to impose just and responsible sentences.

I would ask also that a letter from the NAACP also be inserted into the RECORD at this point.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
*Washington, DC, April 10, 2003.*

Re NAACP opposition to S. 151, the ''Child Abduction Prevention Act of 2003.''

Members,
*House of Representatives,*
*Washington, DC.*

DEAR REPRESENTATIVE: On behalf of the National Association for the Advancement of Colored People (NAACP), the nation's oldest, largest and most widely-recognized grass roots civil rights organization, I am writing to urge you to oppose the conference report to S. 151, the ''Child Abduction Prevention Act of 2003'' in its current form.

While the issue of child abduction is a serious, heart-wrenching and too often tragic issue that deserves to be dealt with aggressively at a federal level, Title IV of the final bill would radically limit federal judicial discretion to impose just sentences for almost all federal offenses; not just those relating to child abduction. Because this provision overrules a key Supreme Court decision and constitutes a dramatic encroachment on the judiciary, it is opposed not only by civil rights organizations across the board, but also by Supreme Court Chief Justice Rehnquist, the Federal Judicial Conference, the Federal Sentencing Commission, the American Bar Association, the Federal Bar Association as well as countless law professors, prosecutors and public defenders.

The potential impact of this provision on the African American community and on ethnic minority American communities throughout the nation is almost incomprehensible. Racial bias in our nation's criminal justice system is widespread and well documented. For example, according to reports from the US Department of Justice and the US Department of Health and Human Services, people of color commit drug offenses at a rate proportional to our percentage of the US population, roughly 25% for African Americans and Hispanic Americans combined. Yet almost 75% of the people charged in this nation with a drug offense are either Hispanic or African American.

The impact this racial bias has on our communities is devastating. According to the US Department of Justice report issued just last week, an alarming 12% of all African American men between the ages of 20 and 34 are in jail or in prison. One out of every three black men born in the United States will spend time behind bars in their lifetime.

The federal prison system now holds over 160,000 inmates, more than any single state prison system. Furthermore, the federal prison population has more than quadrupled in the last 20 years for mostly non-violent offenses even while the rate of incarceration has actually slowed in many states. Under Title IV, the growth rate is predicted to be staggering.

I hope that you will consider the far-reaching impact this legislation will have on individual lives as well as whole communities and even our nation. I urge you again to oppose the final conference report unless Title IV is eliminated or at least amended to address only child abduction cases.

Thank you in advance for your attention to this matter. If you have any questions, I hope that you will feel free to contact me at (202) 638–2269.

Sincerely,

HILARY O. SHELTON,
*Director.*

Mr. Speaker, for those reasons we should vote against this report and send the measure back to committee for serious consideration. Many of the problems can be fixed if we would seriously consider the bill in a regular deliberative legislative process.

So I urge my colleagues not to vote on the conference report, and I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Speaker, I thank the gentleman for yielding to me.

The gentleman from Virginia and I must be looking at different legislation. In my view, this is a proud moment for the House.

□ 1145

It is a proud moment for the Committee on the Judiciary. I know it is a proud moment for me personally. I came to Congress with the hope of having moments like this.

There are so many great provisions and parts to this comprehensive legislation. I will focus on just three, the three that I was most involved with, number one, what is the so-called the ''two strikes and you're out'' for child molesters provision. With respect to Federal sex crimes against kids, it says very simply that if you have been arrested and convicted of a serious sex crime against kids, and when you get out, you do it yet again, you are going to go to prison for the rest of your life. No more chances, no more questions and, Lord willing, no more victims.

Secondly, it contains lifetime supervision for Federal sex offenders. We hear from judges again and again that there are criminals that go through their courts that they believe should have supervision for a long time. They are dangerous. They will do it again. Current law only allows them to order 5 years. This gives them the discretion, it does not mandate it, it givers them the discretion for lifetime monitoring.

And third, there are some provisions from the Debbie Smith Act, which I have authored, along with the gentlewoman from New York (Mrs. MALONEY) and Senator BIDEN from the other body. This allows Federal prosecutors to issue indictments against sex criminals based upon DNA gathered at the crime scene.

Mr. Speaker, this is an institution which all too often uses superlatives and all too often overstates the value of legislation, but this bill, with its AMBER Alert provisions with respect to responding to crimes and bringing back victims safe and sound, is a wonderful thing.

With respect to the DNA-John Doe indictment provisions, which will allow us to prosecute crimes more efficiently, more quickly, to get these guys off the street, it is a better bill for that reason. For its ''two strikes and you're out'' provisions, which will allow us to lock up predators once and for all, so they cannot do it yet again and again, for those reasons, it is a wonderful, historic bill.

We are taking a bold step today. I agree. This is historic legislation. The majority leader referred to this as the most comprehensive child safety legislation that this body has ever taken up. I have not been around long enough; I will trust him on that. But what I can say from my experience, I can say that we can all say proudly today, to policymakers, to law enforcement, to victims, to everyday families, we can say proudly today, We fight back. And that is something that we can all be very proud of.

I urge ''yes'' votes. Let us send a strong signal. Let us pass this bill today.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE) a member of the Committee on the Judiciary.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Virginia for yielding me this time.

Mr. Speaker, I think it is important to clear the record and make it very clear that all of us are committed to fighting against the predatory acts of those who would do harm and injure our children.

I believe there was unanimous joy in America and in this body when Elizabeth Smart was returned to her family. I said just a few minutes ago on this floor that it was because of an AMBER Alert-type system, her younger sister, and the many community friends who were alert when they began to hear information. So collectively, as neighbors, we can, in fact, enforce against those predators the laws of the land and protect our children.

My record on this floor has been consistently supporting laws to protect our children. Why? Because I have seen the pain of families who have lost their little babies, staying with the family of Laura Ayala in my community, and wanting her to be found and recognizing the need for the community to come together. So there are parts of this legislation that I support.

I am glad that we are supporting the National Center for Missing Children. I would hope that we could have done more. I have legislation to create a separate DNA bank for sexual predators against children. My law enforcement officials in Harris County say that if there is such a bank, when there are allegations of sexual acts against children, the police can go to one, single database and know that these are at least convicted sexual predators against children and quickly assess whether any of these individuals were in the area of this missing or molested child.

So there are a lot of things that this body can do.

But, Mr. Speaker, I believe that the American people are respectful of the laws and the Constitution. They know the value of having what we call Article III courts, Federal courts, with the appropriate discretion to be able to make decisions in the courtroom about sentencing of individuals under the sentencing guidelines that are worked through the Federal Judiciary and the U.S. Sentencing Commission.

Why did we have to add this to a bill that deals with the question of protecting children? This is a direct insert, a direct hammer, a direct axe to the direction of the courts. It directs the Sentencing Commission to amend guidelines to ensure that the incidence of downward departures is substantially reduced. It means that that judge who is listening to the case cannot go up, maybe cannot go down in terms of sentencing. It requires that a prosecutor approve a downward departure on extraordinary acceptance of responsibility and prohibits the Commission from even altering this amendment.

What we are doing with this legislation is not having long hearings about interfering with the judicial discretion; we are just writing legislation without hearing from our judges or knowing how it will be impacted.

One thing we value is the independence of our court system. We may not agree with what the Supreme Court renders, I may not agree with their decision on affirmative action or previous decisions, but the court will have ruled. I will have to find other ways to address the question.

Here we are dealing with these courts and not having full vetted hearings and listening to the courts themselves.

It establishes de novo review of all downward departures in all cases. Requires the Department of Justice to report downward departures to the Committee on the Judiciary unless, within 90 days, the AG reports to Congress of new regulations. It gives the Justice Department access to Sentencing Commission files on each judge's departure practices in all cases.

That is absolute intimidation of the court. That is absolute intimidation of our Federal judges. That is absolute intimidation of our Judiciary, for which we pay taxes, not allowing them the discretion that is necessary to be fair in the courthouse.

The one thing we believe in is a due process system. And so here we have this provision that addresses all sentencing, not just limited to sexual crimes against children and the unfairness of the process.

I am reminded of the tragedy with Elizabeth Smart. If my colleagues will recall, there was a gentleman incarcerated that seemingly had all of the tendencies to be the perpetrator. He died in jail. We have now come to find out, at least allegedly so, that there was another perpetrator. Just imagine if he had lived, we had not found Elizabeth Smart, and he went to trial. These are the kinds of potential injustices that will occur when the Federal courts are in fear of their life because they have pressure from this place to put certain sentencing in place.

Mr. Speaker, let me say in closing that this bill has a lot of bad aspects to it. It did not have to be so. We could have done a good job, and I wish we had done so.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from Texas asked why we have to have restrictions on downward departures, and I will give her one example.

In the case of the United States v. Robert Parish, a defendant who was convicted of possession of child pornography. He was in possession of 1,300 images of child pornography, some of which depicted graphic violent sexual exploitation of very young children. He got a downward departure.

The majority of those 1,300 child pornography images which he possessed depicted adolescent girls, including one in which a very young girl, wearing a dog collar around her neck, is having sexual intercourse with an adult male. The defendant was also in the midst of communicating on line with a 15-year-old female high school student when, thankfully, he was arrested.

Now, what happened when he was convicted? The sentencing guidelines have a range of 33 to 41 months imprisonment for a conviction of those crimes. The trial court gave him 8 months. The trial court found that the defendant's conduct was outside the typical heartland of these types of cases, and that the defendant was susceptible to abuse in prison. The trial court felt that the combination of factors, including the defendant's ''stature,'' ''demeanor,'' ''naivete,'' and the nature of the offense justified the departure from the minimum of 33 months in the guidelines to just 8 months.

This is why we have the restriction on downward departures for sex crimes in this bill.

Now, I am a bit puzzled that the gentlewoman from Texas (Ms. JACKSON-LEE) is complaining about the fact that we provide for a de novo review of downward departures for all crimes, not just crimes against children, but all crimes. When this legislation was originally debated on March 27, she voted in favor of it, and I introduced in the CONGRESSIONAL RECORD a letter signed by a majority of the members of the Congressional Black Caucus who were in office at the time asking the Clinton Justice Department, headed by Attorney General Janet Reno, to seek a de novo review of the downward departure that the trial judge gave to Stacey Koon, who is the police officer who was convicted of violating the civil rights of Rodney King.

Fortunately, that passed and that is included in this legislation. What we are doing in this legislation on de novo review is exactly what the next speaker, the gentlewoman from California (Ms. WATERS), and those who cosigned this letter, asked the Clinton Justice Department to do.

Now, unfortunately, the Supreme Court of the United States, in the case of Koon v. United States, decided that there could only be a review on appeal of a departure from the sentencing guidelines based upon abuse of discretion by the trial judge. We overturn that part of the Koon v. U.S. ruling and allow for de novo review on appeal. Sometimes, maybe, if you ask for something too much, you might get it.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume to read just one paragraph of the letter the gentleman from Wisconsin just referred to.

''We are troubled that the sentence for the crime was reduced to 30 months upon the court's consideration of mitigating facts. Such a reduction for mitigating factors may be appropriate in other circumstances.''

In other words, Mr. Speaker, we did not ask for a change in the law, we just asked for a review consistent with the law. This bill changes the law, changes the standard for review. What the Congressional Black Caucus asked for was just a review under the current law.

Mr. Speaker, I submit for the RECORD the letter just referred to by the gentleman from Wisconsin from the Congressional Black Caucus.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, August 6, 1993.*

Hon. JANET RENO,
*Attorney General, Department of Justice, Washington, DC.*

DEAR ATTORNEY GENERAL RENO: As members of the Congressional Black Caucus, we are writing to you because of our concern about the sentencing of Officer Laurence Powell and Sergeant Stacey Koon by Judge John Davies in the Rodney King civil rights case.

We are troubled that the sentence for the crime was reduced to 30 months upon the court's consideration of mitigating facts. Such a reduction for mitigating factors may be appropriate in other circumstances. However, we feel that the defendants' special status as police officers, with special duties owed to the public, should have militated against such a significant reduction.

As you well know, the maximum possible penalty was ten years and fines of up to $250,000. Your federal prosecutors were asking for seven to nine years. Our federal sentencing guidelines recommended minimum sentences in a range of four to seven years in prison.

Instead, Judge John Davies made broad use of subjective factors. He stated that he read only letters addressed to him from the friends and families of Officer Powell and Sergeant Koon. He argued that much of the violence visited on Rodney King was justified by King's own actions. However, these officers were convicted on charges of violating Rodney King's civil rights. We believe these mitigating factors did not justify so large a reduction given the defendants' special responsibilities as police officers.

In addition, Judge Davies did not afford proper weight to the racist comments made over police radio by those convicted on the night of the beating in discounting race as a motivation for the beating. He similarly failed to take into account the remarkable lack of remorse shown by Officer Powell and Sergeant Koon since their conviction.

People of good will all over this country and of all races were heartened when Officer Powell and Sergeant Koon were convicted by a jury of their peers, a verdict made possible by the Justice Department's resolve to file civil rights charges and by the phenomenal performance of federal prosecutors. With these severely reduced sentences, however, we are sending a mixed message. Are police officers going to be held responsible for excessive use of force or not?

We think what has been lost, in all this, is that police officers have an enhanced responsibility to uphold the law.

Notwithstanding Judge Davies' authority to modify the sentencing guidelines, most experts agreed that the minimum four to seven years sentence should have been followed in this case.

We realize that the trial judge is afforded sufficient latitude in sentencing, but we urge the Department of Justice to appeal these sentences. We need to reexamine these sentences so that justice can finally be done in this difficult, painful case. Only then can we begin to put this behind us.

Sincerely,

Maxine Waters; Sanford Bishop; Eddie Bernice Johnson; Floyd H. Flake; Albert R. Wynn; Carrie P. Meek; Eva M. Clayton; Major R. Owens; Walter Tucker; William Clay; Charles B. Rangel; William J. Jefferson.

James E. Clyburn; Earl Hilliard; Bennie M. Thompson; Cleo Fields; Cynthia McKinney; John Lewis; Corrine Brown; Donald M. Payne; Alcee Hastings; Kweisi Mfume; Louis Stokes; Melvin L. Watt; Ronald V. Dellums.

Mr. Speaker, could you advise how much time remains on both sides?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Virginia (Mr. SCOTT) has 16½ minutes remaining and the gentleman from Wisconsin (Mr. SENSENBRENNER) has 15½ minutes remaining.

Mr. SCOTT of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have the letter that the members of the Congressional Black Caucus sent to Attorney General Janet Reno on August 6, and while they did not ask for a change in the law, what they did ask was for the Justice Department to appeal the sentence.

Now, what happened in the Stacey Koon case is that the Court of Appeals agreed with the Justice Department and established de novo review. Mr. Koon's lawyer appealed to the Supreme Court, and the Supreme Court reversed the Court of Appeals and established the abuse of discretion standard.

Now, what this legislation does is to establish the de novo review standard for all crimes should there be a review of the sentence on appeal.

Mr. Speaker, I submit for the RECORD the letter dated August 6, 1993 from members of the Congressional Black Caucus.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, August 6, 1993.*

Hon. JANET RENO,
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In addition, Judge Davies did not afford proper weight to the racist comments made over police radio by those convicted on the night of the beating in discounting race as a motivation for the beating. He similarly failed to take into account the remarkable lack of remorse shown by Officer Powell and Sergeant Koon since their conviction.

People of good will all over this country and of all races were heartened when Officer Powell and Sergeant Koon were convicted by a jury of their peers, a verdict made possible by the Justice Department's resolve to file civil rights charges and by the phenomenal performance of federal prosecutors. With these severely reduced sentences, however, we are sending a mixed message. Are police officers going to be held responsible for excessive use of force or not?

We think what has been lost, in all this, is that police officers have an enhanced responsibility to uphold the law.

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Mr. Speaker, I reserve the balance of my time.

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Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out that the Congressional Black Caucus did not complain about the Supreme Court reinstating the law as it was.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WATERS), a member of the Committee on the Judiciary.

Ms. WATERS. Mr. Speaker, I rise in opposition to this legislation. I rise in opposition to the legislation because this is one of those bills that could have been a clean bill dealing with AMBER Alert. It could have been a bill to deal with the problem of abduction of our children.

However, some Members of this body have taken this as an opportunity to load up the bill with everything that they think will create certain kinds of problems so that it can be used for political reasons. There will be a lot of Members who will be intimidated, and they will vote for this bill even though they are opposed to mandatory minimum sentencing because they do not want to be accused of being against a bill that will deal with the problems of abduction of our children.

Well, we must point out what is going on and we must focus in on this business of mandatory minimum sentencing. Every judge that I know of in the country and all of the Federal judges, whether they are on the left or the right, disagree with mandatory minimum sentencing. They do not like it. It takes away their discretion. It does not allow them to take into consideration all of the mitigating factors, and so we continue to overrule the judges that go through awesome processes to get where they are by inserting mandatory minimum sentencing into legislation. It has wreaked havoc on some communities.

As a matter of fact, when we take a look at the mandatory minimum sentencing done because of some of the drug laws that we have created right here on this floor, Members will see that whole communities have been devastated, and we are beginning to get a turnaround on some of that.

Mr. Speaker, we have young people 18 and 19 years old under mandatory minimum sentencing, drug laws, who are doing not just a minimum 5 years but even more, simply because the judge had no discretion. A child, first-time offense, with some of these drug laws, coming from good families who happen to makes a mistake, wrong place, wrong time, and we have something similar in this legislation between consenting young people, 18 and 17 years old who would cross a State line and have consensual sex, they would be at risk for mandatory minimum sentencing.

We do not want to do that. This is not honest. If we want a clean bill that deals with abductions and an AMBER Alert, do that. Take this other mess out of the bill and stop trying to use it as a political vehicle by which to judge some people in their elections.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today with a heart filled with gratitude, not just as a congressman, but as a parent of three small children for the efforts of the conferees in developing this historic child protection legislation. This will save lives.

I would particularly like to single out the courageous and tenacious and dogged efforts of the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for the gentleman's commitment against, at times, withering public relations challenges to move meaningful legislation for our kids through this body.

I also rise humbly to thank conferees for including language known as the Truth in Domain Names language in the conference report which I authored in the last Congress and again in this. Mr. Speaker, the very moment this conference report becomes law, not only will our children become safer from predators, but the Internet will become safer for our children, families, and teachers. As millions of Americans do every night, I help my kids with their homework. As we surf the Web for useful information about history or government or science, my kids with the most innocent intentions will type in domain names which are harmless, but what pops up are sites with smut, profanity and pornography; and there was no law on the books to prevent that until today. With the Truth in Domain Names language in this legislation, we render those Web sites illegal; and anyone who uses a misleading domain name on the Internet to deceive a person into viewing material constituting obscenity can face fines of up to 2 years in prison; and if they mislead children, they can face 4 years in prison. The minute the President signs this bill, using a misleading domain name with the intent to deceive a child will become a criminal act.

Mr. Speaker, this historic legislation will make our children measurably safer from those who would prey on them. Also, Congress can today make playing on the information superhighway much safer for our kids, and so they should. I urge my colleagues to strongly support this conference report.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, there are two aspects to this bill which I think have very strong merit, and I am very pleased that they have been included; and I enjoyed working with the gentleman from Wisconsin (Mr. SENSENBRENNER) in getting them into the now-final conference report.

The first is the Victims of Child Abuse Act now amended into the bill and now part of this final conference agreement that would reauthorize this important legislation initially authorized in 1992. The thrust of this legislation is to authorize training and technical assistance to programs to improve the prosecution of child abuse cases. This funding flows to centers and programs that provide training for law enforcement agencies, for prosecutors and local jurisdictions to help them establish comprehensive, interdisciplinary approaches to the investigation and prosecution of child abuse cases.

As we move the AMBER Alert response forward, we have to also think about what happens following the joyous reunion of a recovered kidnap victim. There is a lot of healing that has to take place, special counseling for the victims, and then a very special treatment required by prosecutors and law enforcement officials as they bring the crime to punish the perpetrator, but do not want to further punish the victim who has already been through so much.

This legislation was initially authored by the gentleman from Alabama (Mr. CRAMER), who continues to play a leadership role in this area; and I am glad it is included.

I am also pleased the Child Obscenity and Pornography Prevention Act has been included in the legislation and is now part of the conference agreement. This puts back on our books legislation banning computer-generated child pornography. As Members may recall, there was a Supreme Court case that found an earlier statute to be overly broad. Well, we have looked very carefully at the ruling of the Supreme Court. We do not challenge it. We try and follow the direction that they lay out to craft a statute that they will find constitutional. We have tightened the definitions of inappropriate computer-generated child pornography, and we respond to the directions of prosecutors in trying to prosecute those who traffic in child pornography with other provisions as well. We make it illegal for an adult to use child pornography, sending child pornography over the Internet in order to lure children to inappropriate activity. We draw a per se prohibition on the depiction of explicit sex between young children.

Mr. Speaker, we think that this legislation is going to make a very important contribution to our efforts to stop those who want to traffic in child pornography. I urge its adoption.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am frequently asked what we can do to repeal some of the mandatory minimum sentences which frequently impose bizarre, Draconian, and unreasonable sentences. Sometimes these requests come from relatives or friends of people, women whose boyfriends deal drugs, and the young lady does not deal drugs, does not use drugs, but she is around the boyfriend enough so that there is no question, she probably broke the law, took a message, drove a car to a meeting, so prosecutors can show she was involved, but not involved to the point where she ought to serve 20-some years, more than bank robbers serve.

When they ask what they can do about these kinds of Draconian sentences, I tell them the first thing they have to do to repeal the existing mandatory minimums is to stop passing new ones. Today we are going to pass a new set of mandatory minimum sentence laws. If anybody asks in the future where these mandatory minimums come from, Members can point to bills like the one today.

Finally, Mr. Speaker, a lot has been said about the Ashcroft decision. The Ashcroft decision was clear. You cannot prohibit child pornography, illegal child pornography unless real children were involved. The provisions in this bill allow prosecution whether or not real children are involved. The Court goes to great lengths to say whatever problems there are in prosecution, it is a problem for the defense. And if nobody knows whether they are computer-generated or involving real children, in that case they cannot successfully prosecute. They require real children to be involved in the production; and without real children, it cannot be illegal. This statute plainly on its face violates that Supreme Court decision and is unconstitutional.

Mr. Speaker, I hope we can send this back to committee, improve some of the provisions, and pass the AMBER Alert bill like we should. But in its present condition, I hope we will reject the conference report with a ''no'' vote.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this vote is going to be the end of a long period where the provisions of this legislation were carefully considered in the Committee on the Judiciary in the House and in the other body. The compromise that was reached by the conferees is a good compromise. It will make a difference to protect children. It will give parents of abducted children the comfort of knowing that those who have harmed their children are going to be dealt with seriously, as well as setting up the machinery to alert the public and the news media as well as the police to try to find an abducted child and return that child home to his or her parents.

This is legislation that deserves all of our support. I ask for an ''aye'' vote on this conference report. I hope that the other body will act quickly and that the President of the United States can sign this legislation very promptly because our children will be better protected as a result.

Ms. KILPATRICK. Mr. Speaker, It is vital that we implement AMBER Alert systems, not just in our local communities, but nationwide. Our efforts to crack down on child abductors and abusers will be fruitless if we cannot transcend state borders quickly enough to catch these vicious criminals. I am in full support of a national system that will provide for such coordination. In the conference report, we have just that, a provision that provides for a nationwide alert system that is cost-effective and technologically savvy. That is, however, not the only provision in this bill, Mr. Speaker. There are many provisions in this bill that, while attempting to deter these criminals from committing such heinous acts, infringe upon the livelihoods of many innocent individuals and prohibit what would normally be harmless, legal acts.

I vote for the H.R. 1104, the House version of this conference report in hopes that conferees would come together and agree upon a bill that would attack the key issue at hand, protecting our children from molesters and pedophiles. After reviewing the conference report, I did not see any substantive alterations or any elimination of these bad provisions, but rather I noticed additional provisions that, again, hurt the livelihood of innocent individuals and legal acts. For those reasons, Mr. Speaker, I vote ''NO'' on final passage of the conference report and I will further expound on why I did so below.

The PROTECT Act would expand the type of homicide that can be punished by death. This will would provide for this expansion, despite the fact that more than half of death penalty cases are found to be erroneous. Cognizant of the disproportionate number of minorities being sentenced to death yearly, and the high number of erroneous rulings by the court system, I am very reluctant to support such a provision.

Furthermore, I am not a proponent of mandatory minimum sentencing guidelines because they undermine and eliminate judicial discretion in individual cases. Judges, under the provision, are unable to impose a lesser sentence after considering the circumstances surrounding a given case. There should not be a one-size-fits-all sentencing structure when judges are determining incarceration of a human being.

This bill would increase certain mandatory minimum sentences for many sexual abuse crimes. For example, for child abduction cases current law consists of a minimum of 51–63 months in jail. This bill increases the minimum to 121–151 months in jail. Judges engage in numerous cases regarding sexual abduction and have more experience and expertise in those cases than we do. Therefore, we should not second-guess their decisions on whether to impose a sentence that is more lenient. They see the defendant and victim, they hear the arguments and testimony, and hence, we should show deference to their rulings.

Similar to the mandatory minimum provisions, this bill also provides for a ''two strikes and you're out'' section that creates a mandatory life sentence for sexual offenders that have been convicted more than once. This provision negates a judges discretion and ability to impose just sentences. Currently, there is no such law that provides for mandatory imprisonment for life after being convicted of a sex crime.

Under this report, if an individual commits a sex crime and is jailed, subsequent to that person's release, he or she will be supervised for life. The statute of limitations regarding these crimes will be voided and an individual can be supervised for his entire life. Not only will it be difficult for these persons to find employment or social acceptance after such a conviction, but this bill will also allow them to be followed and observed day-to-day.

Another bad provision that was added in conference has been coined the ''crack-house statute amendments''. Essentially, this provision will make legitimate businesses the victim of felony charges if they cannot guarantee a drug free property or business. This provision was intended to eliminate the many detrimental effects of ''rave'' parties that allegedly expose drugs and drug usage to the minors that are present. This provision permits government to narrow its focus to particular parties and social gatherings where drug usage is allegedly prevalent and impose felony charges on the owners as a means to eradicating the drug problem. Quite to the contrary, what it will do is deter innocent, law-abiding property owners and potentially lucrative sole proprietors from investing in the community because of their inability to ensure a drug-free environment. This provision is bad for community and economic development and does not guarantee that these ''raves'' will cease to exist, or that drugs will not be readily available to youth.

In conclusion, Mr. Speaker, I am vehemently opposed to the conference agreement. It is anti-civil liberty and overreaching. Any attempt to provide strong protection for children is trumped by the unreasonable persistence of the majority to increase penalties for these cases. As I stated earlier, the court is experienced enough to decipher individual sex crime cases and impose the appropriate sentence. We should focus on the issue at hand—a system that is technologically apt enough to produce the type of nationwide coordination that we need to catch criminals. Thereafter, the courts will proceed as needed, on a case-by-case basis. I support the need for an AMBER Alert system, but I do not support the conference agreement in its entirety.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in reluctant support of the Conference Report on S. 151, the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, or the PROTECT Act. I support the Conference Report on S. 151 reluctantly because while the Conference Report improves upon the AMBER Alert system, it is does not provide us with a clean AMBER Alert Bill. Moreover, many of the extraneous provisions of the Conference Report violate the Constitutional principles of First Amendment freedom of speech, and the separate judicial powers of our federal courts.

The Conference Report on S. 151 has a myriad of provisions that are unrelated to establishing a national AMBER Alert System. I firmly believe that all of the provisions dealing with criminal justice matters should be debated in separate legislation, and many of the provisions violate the Constitution.

For example, the sentencing guideline provisions proposed by Mr. FEENEY have been the subject of heated debate by the conference members because they are at odds with the Constitution. Mr. FEENEY's provisions impose limitations or prohibitions on federal district court judges' discretion in sentencing. By so doing, Mr. FEENEY's Amendment handcuffs federal judges and eliminates their judicial discretion in imposing sentences.

The Feeney provisions establish separate departure standards for child-related offenses and sex offenses that must be followed by district courts. The provisions also prohibit sentencing departures for gambling dependence, aberrant behavior, family ties, and diminished capacity in child and sex cases. The provisions limit age and physical impairment departures in child and sex cases.

Mr. FEENEY's provisions improperly interfere with the sentencing process in cases that have left Federal district courts and are now on appeal. The Amendment prohibits downward sentencing departures based on new grounds when a case is remanded. It also subjects district courts to de novo review of their sentencing decisions.

The provisions offered by Mr. FEENEY are an improper violation of the doctrine of separation of powers. Article III of our Constitution separates powers between the three branches of our Government. Our Federal courts area allocated the power to review the facts and law in a particular case and render a decision. The Federal judges that sit on our courts are hand-picked for the legal acumen and wisdom, and we defer to their experience in rendering sentencing decisions.

It is improper for Congress to mandate that Courts follow rigid sentencing guidelines. To do so strips our federal judges of their discretion to review the facts and extenuating circumstances of a particular case, and render a decision based on the best interests of the accused and the community. Members of Congress are not members of the judicial branch. They are not privy to all of the information needed to make an informed sentencing decision in any given case. The responsibility of sentencing should be reserved for federal judges.

I also object to the provisions of the PROTECT Act that ban ''virtual'' child pornography. The provision of the Conference Report to S. 151 violates the First Amendment and attempts to circumvent the Supreme Court's ruling in Ashcroft v. Free Speech Coalition, by claiming that ''virtual'' child pornography is ''indistinguishable'' from actual images of sexual activity.

The Majority of the Supreme Court has already ruled in Ashcroft that extending the reach of child pornography laws to computer-generated images that do not involve real children was ''overbroad and unconstitutional'' and violated the First Amendment. While computer-generated images of child sexual activity may be objectionable to all of us, the Supreme Court has made clear that ''the government may not suppress lawful speech as a means to suppress unlawful speech.'' The Court also ruled, ''protected speech does not become unprotected merely because it resembles the latter.''

The provisions of the Conference Report are particularly controversial because they deal with Constitutional liberties and personal freedoms. The longer we debate Amendments like Mr. Feeney's, the longer our country operates without a national AMBER Alert System. Every day that goes by without a national AMBER Alert system in place puts the lives of children at risk. According to an October 2002 U.S. Department of Justice Report titled the National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (NISMART Report), 12,222 children were the victims of traditional kidnappings in the year 1999 alone. That amounts to approximately 33 children kidnapped nationwide per day.

While the members of the House debate extraneous amendments, hundreds of children are being kidnapped and murdered. As the Chair of the Congressional Children's Caucus, I strongly believe that the best way to save children's lives is to vote in support of the PROTECT Act, even if I do so reluctantly.

That is why, Mr. Speaker, I reluctantly vote in favor of this bill.

Mr. SWEENEY. Mr. Speaker, I rise today to voice my support of AMBER alert bill, the Child Abduction Prevention Act. One of the provisions in this comprehensive legislation is my own bill, H.R. 220—known as Suzanne's law. The inclusion of Suzanne's Law will aid in the abduction investigations of college-aged children.

Mr. Speaker, this legislation was inspired by Suzanne Lyall—an ambitious young woman from the 20th Congressional District of New York. Suzanne abruptly vanished on March 2, 1998 from her life as a University of Albany college student. Although only 19 years old at the time of her disappearance, police did not immediately act after her parents reported her missing. The common practice of state and local law enforcement agencies is to impose a 24-hour waiting period before accepting missing persons reports for individuals over the age of 18. It is often assumed that college aged youth, as legal adults, disappear from their own free will. Although this assumption may have some anecdotal credibility, Suzanne's case proves it is not a responsible assumption. Time is of the essence when someone disappears.

Mr. Speaker, Suzanne's Law would amend the Crime Control Act of 1990 to require each Federal, State, and local law enforcement agency to immediately report missing children under the age of 21 to the Department of Justice's National Crime Information Center. The current requirement is only for those individuals under 18 years of age. Such a change would eliminate costly delays. It is certainly prudent to offer college-age youth, away from home and independent for the first time, the additional resources and protections that come with the designation of ''missing child.'' This designation will also help open doors with organizations that sponsor ''missing children'' lists, but do not include individuals over 17 years old.

Suzanne's parents, Doug and Mary Lyall, understand all too clearly the pain and confusion experienced by the families and friends of missing children. They have courageously used their own loss to help others struggling with the disappearance of a loved one.

As a result of their tireless activism, I first introduced Suzanne's Law during the 106th Congress. Mr. Chairman, I am pleased this legislation, along with the other valuable provisions of the AMBER alert bill, will be voted on today. I urge my colleagues to honor the Lyalls and support Suzanne's Law. Perhaps with its passage, potential breakdowns in investigations will be avoided and future college-age disappearances will be taken seriously.

Mr. DELAHUNT. Mr. Speaker, I would like to be able to vote for this bill. It includes provisions that I strongly support—including the ''AMBER Alert'' system that would aid in finding missing children. But those children have been taken hostage by a bill that also includes so-called ''sentencing reforms''—radical, sweeping changes to the Federal sentencing system that were never considered by any committee of either House. Provisions that would cause an explosion in the number of people behind bars—including many who simply do not belong there.

Just three days ago, the Justice Department reported that the number of people living behind bars in the United States had exceeded two million for the first time in our history. Two million. And included in that number is a staggering 12 percent of African-American men aged 20 to 34.

If this bill is the congressional response to that situation, the public may well conclude that we have finally taken leave of our senses.

The rate of incarceration in the U.S. is seven times higher than that of such advanced nations as Germany, Italy, and Denmark. A primary reason for this is that a large number of our prisoners are serving long terms for minor nonviolent offenses. And if this bill becomes law, there will be a lot more of them.

Men in prison cannot raise families, cannot hold jobs, cannot pay taxes, and cannot support the economy. And when they get out, many who might have turned their lives around will have become hardened criminals, ready to return to the only life they know. Conservatives and liberals alike have recognized that this situation poses a threat to the future of our cities, our families, our economic well-being, and the health of our democracy itself. Growing numbers of prominent conservatives have joined in calls for an end to mandatory minimum sentences. Yet this bill takes a giant—and potentially catastrophic—step in the wrong direction.

When Congress enacted the Sentencing Reform Act of 1984, it created a system of guidelines for judges to follow. But Congress also recognized that no system of guidelines can anticipate all of the facts and circumstances of a given case. And it wisely preserved sufficient flexibility to allow the judge to depart from the guidelines when necessary.

This bill would substantially eliminate that safety valve, barring judges from making ''downward departures'' in a large number of cases—effectively transforming the federal guidelines into a system of mandatory minimum sentences.

When Chief Justice Rehnquist learned of this proposal, he wrote: ''this legislation, is enacted, would do serious harm to the basic structure of the sentencing guideline system and would seriously impair the ability of courts to impose just and responsible sentences.'' Justice Rehnquist is certainly no liberal. But even his concerns have been brushed aside.

Similar opposition was expressed by the Judicial Conference of the United States, the American Bar Association, the Leadership Conference on Civil Rights, the Washington Legal Foundation, the Cato Institute and many other groups and individuals. All to no avail.

It is true that during conference, a number of improvements were made to the original language. But the final version retains many features of the original, and barely begins to address the concerns raised by the Chief Justice.

Title IV of the bill prohibits all downward departures in connection with child-related offenses and sex offenses. In all other cases, it discourages judges from making downward departures by subjecting them to burdensome reporting requirements and Justice Department scrutiny if they do so. And it directs the Sentencing Commission to amend the guidelines to ensure that downward departures are ''substantially reduced.''

Since there has been virtually no debate on these radical proposals, we must guess at the reasons for them. Apparently, they are based on the belief that judges have been abusing their departure power by handing down overly lenient sentences.

No doubt errors and abuses occur. Judges are human, and some sentences will be too lenient while others are too harsh. But the system already provides a remedy for this: the government can and does appeal downward departures it considers inappropriate. And it wins approximately 80 percent of such appeals.

The truth is that the vast majority of the downward departures are sought, not by the judge, but by the government itself. Of the nearly 20,000 downward departures granted in 2001, 79 percent were requested by the prosecution—most in return for the cooperation of the defendant, and the rest in five Mexican border districts in which the government uses departures to clear cases more quickly.

If the sponsors of the bill have concerns about the rate of downward departures, the Justice department is where they should be making inquiries. As a former prosecutor, I can see plenty of reasons to question the overuse of departures as a law enforcement tool.

Inf act, the one thing that pleases me about the language as it came out of conference is that it instructs the Sentencing Commission to review not just those downward departures that are initiated by the sentencing judge but all downward departures—whether requested by the prosecution or the defense. I certainly hope that in fulfilling the congressional mandate to review these departures and ensure that their incidence is ''substantially reduced,'' the Commission will do so in a thorough and even-handed way.

Nevertheless, if there is a problem with departures, depriving judges of the ability to exercise discretion cannot be the answer. A rigid, mechanical system of sentences cannot do justice—either to the accused or to the society to which the millions we imprison today will one day return.

Mr. HOEKSTRA. Mr. Speaker, I speak in support of the conference report to S. 151, the PROTECT Act, which creates new and increases already existing penalties for crimes against children, as well as provides for the national coordination of the AMBER Alert communications network. An important provision in S. 151 doubles the authorization level for the National Center for Missing and Exploited Children (NCMEC), which serves as the national resource center and clearinghouse to aid missing and exploited children and their families.

The conference report also makes other changes to require Regional Children's Advocacy Centers grantees to provide information to the Attorney General on the use of funds for evaluation of community response to child abuse, and coordinates the operation of a Cyber-Tipline to provide online users an effective means of reporting Internet-related child sexual exploitation in the areas of distribution of child pornography, online enticement of children for sexual acts, and child prostitution.

The National Center for Missing and Exploited Children is a private non-profit organization, mandated by Congress, working in cooperation with the Office of Juvenile Justice and Delinquency Prevention within the U.S. Department of Justice. It is a critical resource for aiding over 18,000 law enforcement agencies throughout the nation in their search for missing children.

The Center is uniquely positioned to access vital information to aid in the search and recovery of missing kids. It is the only child protection non-profit organization with access to the FBI's National Crime Information Center (NCIC) Missing Person, Wanted Person, and Unidentified Person Files; the National Law Enforcement Telecommunications System (NLETS); and the Federal Parent Locator Service (FPLS). Additionally, it is the only organization operating a 24-hour toll-free Hotline for the recovery of missing children in cooperation with the U.S. Department of Justice. It is also the sole organization operating a 24-hour, toll-free child pornography tip-line in cooperation with the U.S. Customs Service and the U.S. Postal Inspection Service.

Mr. Speaker, it is clear that the National Center for Missing and Exploited Children does our country and our nation's families a great service in the fight to keep our nation's children safe. I want to congratulate my colleagues for quickly resolving the differences between the House and Senate bills and I urge their support for final passage.

Mr. HONDA. Mr. Speaker, it is with a troubled heart that I will be voting for the PROTECT Act today. The benefits of a national AMBER Alert network are undeniable, and I cannot support any further delay on its implementation. However, I do not believe that this Conference Report will make good law, and I fervently hope that Congress will soon repeal the egregious provisions that have been included. Though the Conference Committee was able to moderate the bill somewhat, it is still chock-full of what I considered to be bad policy. Regardless of what one thinks of these provisions, they should have received independent consideration and deliberation, rather than being tied to, and slowing down, a need as pressing as AMBER.

I am particularly disturbed by the parts of this legislation that would eliminate judicial discretion. For example, Section 109 of this measure would fundamentally alter the carefully crafted and balanced system established by the Sentencing Reform Act. It undermines our independent judiciary, as well as the United States Sentencing Commission. It is a reversal of existing law that was inserted during floor debate, without committee hearings or any semblance of due deliberation. Unfortunately, this is all to emblematic of how this bill has been handled in this body.

Mr. Speaker, I will vote for this bill because it is well past time to pass an AMBER Alert network act, but instead of marking an unmitigated legislative achievement, the passage of this omnibus measure will be a cause for serious self-reflection on what we are doing here.

Mr. CONYERS. Mr. Speaker, I had hoped that we would have been able to come together to reach consensus on how best to deal with the difficult problem of child abduction in this country and to pass an AMBER alert bill. The recent rash of child abductions clearly indicate that additional steps need to be taken to protect our children from sexual predators.

Unfortunately, the conference was delayed and hung up by provisions which have nothing to do with Amber alert and which should have been dealt with separately. First and foremost, is the highly controversial amendment offered by Rep. TOM FEENEY, which would totally hamstring any remaining discretion federal judges have in making sentencing determinations. This provision was added on the floor two weeks ago without proper hearings or committee debate and clearly is not ready for prime time.

It is opposed by Chief Justice Rehnquist, by the Federal Judicial Conference, by the American Bar Association, by the Federal Bar Association, by the Leadership Conference on Civil Rights, by the NAACP and by countless law professors, prosecutors, and public defenders.

In a nutshell, the Freeney Amendment, as introduced, would make it next to impossible for federal judges to reduce sentences below the guidelines, even where mitigating factors such a military service, community involvement and youth are present. Guess who is going to be harmed disproportionally by this harsh approach to sentencing—minorities in general and African Americans in particular.

Consider the fact that a full 12 percent of African American men aged 20–34 are in prison—more than 8 times the comparable rate of white males in the same age group. According to the Bureau of Justice Statistics, nearly one out of every three black men will spend time in prison during their lifetime.

So when you toughten sentencing, as the Feeney amendment would do, you should know that you are busting up African American families and decimating our inner cities. You are also creating massive problems concerning reentry when these individuals leave the prison system in another 10 or 15 years. The very least we should do is to leave these critical life decisions in the reasonable discretion of the Federal judge who is closest to the situation. To use the popular AMBER alert measure to alter this long standing principle, and without proper hearings or consideration is to me shameful.

Now my friends on the other side of the aisle will claim not to worry, that they fixed the Feeney amendment which they will say is limited to sex offenses. But the truth is that the revised Feeney language would radically alter the sentencing regime for every single criminal case in the legal system. It does this by adding a whole host of new procedural requirements for a judge to show any form of mercy in all federal cases. The bill also adds new requirements on the Justice Department and the Sentencing Commission with regard to downward departures in all Federal cases. At the end of the day, what we will have is something very close to the original purpose of the Feeney Amendment—mandatory minimums in all federal criminal cases.

There are other problems in the bill before us, including new death penalties, eliminating statutes of limitation, and criminalizing so-called ‘‘RAVE’’ parties. As a result of these provisions and the very broad based and dangerous Feeney amendment, I must reluctantly urge a NO vote on this short sighted measure.

[April 9, 2003]

VOTE NO ON CHILD ABDUCTION PREVENTION ACT (S. 151), WHICH DEPRIVES FEDERAL JUDGES OF DISCRETION TO MAKE THE PUNISHMENT FIT THE CRIME

Dear Representative: On Thursday, April 10, the House will consider the Child Abduction Prevention Act (S. 151), Title IV of which would radically limit federal judicial discretion to impose just sentences for federal offenses. This measure, which was attached to the House child abduction bill without committee considerations, goes far beyond any effort to crack down on child abductors. It overrules a key Supreme Court sentencing decision and constitutes a drastic encroachment on the independence of the judiciary and the U.S. Sentencing Commission. Such far-reaching changes in the laws and procedures that govern our federal criminal justice system should not be undertaken without hearings and meaningful debate.

Title IV directs the Sentencing Commission to limit a federal judge’s power to depart from the Sentencing Guidelines. Departures are in integral part of the Sentencing Reform Act that Congress enacted in 1984. That bipartisan reform struck as balance between uniformity and judicial discretion and was enacted after years of study and consideration of problems in the previous sentencing system. Congress understood that a guidelines system that encompasses every relevant sentencing factor is neither possible nor desirable. Departures are a necessary and healthy part of the guideline system.

Departures do not reflect an avoidance of the law by federal judges but rather their conscientious compliance with the Congressional mandate to impose a guideline sentence unless the court finds a circumstance not adequately considered by the Commission that warrants a departure.

The Sentencing Reform Act already contains substantial limits on judicial discretion. The overwhelming majority of federal sentences, other than those requested by the government to reward defendants who have provided assistance in prosecuting others or to manage the caseload in border districts, are within the guidelines written by the Sentencing Commission, which is appointed by the President and confirmed by the Senate. Judges may only depart from the guidelines if the case involves circumstances not adequately considered by the Commission. The government may appeal any downward departure.

Title IV overturns an important Supreme Court decision. In the 1996 case of Koon v. United States, which was in relevant part a unanimous decision, the Supreme Court interpreted the departure standard in a way that limited departures but left some room for judicial discretion. Title IV of S. 151 recklessly overturns that landmark decision, which recognized that departures are an integral part of the guidelines system that seeks ‘‘to reduce unjustified disparities and so reach toward the evenhandedness and neutrality that are the distinguishing marks of any principled system of justice [but that at the same time preserve the] uniform and constant * * * Federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue.’’ 518 U.S. 81, 113 (1996). The current bill overturns the basic structure of the carefully crafted guidelines system, without meaningful input from judges or practitioners and based on numbers called into question by the statistics maintained by the Sentencing Commission.

Departures preserve some measure of fairness in the Sentencing Guidelines. Without the discretionary authority to depart, all crimes regardless of the circumstances would have to be sentenced exactly the same; one size must fit all, predetermined by the body of experts sitting in Washington, D.C. The Sentencing Guidelines will become a little more than mandatory minimum sentencing laws, which cause rampant injustice and unwarranted racial disparity.

The departure process is already under review. Departures are the one area of the Guidelines were the Commission can see if its sentencing policies are working or whether an adjustment needs to be made. A high departure rate in certain types of cases can indicate flaws in the guidelines that the Commission needs to address. This is the careful system of checks and balances that Congress crafted when it created the guidelines. The Sentencing Commission has repeatedly demonstrated its willingness to police the departure power and recently announced that it will be conducting a study of the issue. We urge Congress to let this process work.

Thank you for considering our views. Please contact Kyle O’Dowd (202–872–8600, ext. 226) for the National Association of Criminal Defense Lawyers or Ronald Weich for the Leadership Conference on Civil Rights (202–788–1818) if we can provide more information.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS,
NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS,
NATIONAL LEGAL AID AND DEFENDER ASSOCIATION,
NATIONAL ASSOCIATION OF FEDERAL DEFENDERS,
FAMILIES AGAINST MANDATORY MINIMUMS.

Mr.SENSENBRENNER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of the conference report will be followed by 5-minute votes on motions to suspend the rules and agree to House Concurrent Resolution 141 and House Resolution 165, as amended, which were debated yesterday.

The vote was taken by electronic device, and there were—yeas 400, nays 25, answered ‘‘present’’ 2, not voting 8, as follows:

[Roll No. 127]

YEAS—400

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English

Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—25

Ballance
Clay
Conyers
Cummings
Davis (IL)
Frank (MA)
Jackson (IL)
Jones (OH)
Kilpatrick
Kucinich
Lee
Lewis (GA)
McDermott
Mollohan
Nadler
Oberstar
Paul
Payne
Sabo
Sanders
Scott (VA)
Stark
Towns
Waters
Watt

ANSWERED "PRESENT"—2

Delahunt
Tierney

NOT VOTING—8

Brady (TX)
Crenshaw
Davis (TN)
Dooley (CA)
Gephardt
Houghton
McCarthy (MO)
Rush

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). The Chair reminds the Members there are 2 minutes left to vote.

□ 1234

Messrs. BALLANCE, DAVIS of Illinois, LEWIS of Georgia and CUMMINGS, Ms. LEE and Mrs. JONES of Ohio changed their vote from "yea" to "nay."

Mr. TIERNEY changed his vote from "yea" to "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. DAVIS of Tennessee. Mr. Speaker, on rollcall No. 127, had I been present, I would have voted "yea."

Mr. RUSH. Mr. Speaker, on rollcall No. 127, I was unavoidably detained in a meeting with my regional constituents. Had I been present, I would have voted "yea."

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8, rule XX, the remainder of this series will be conducted as 5-minute votes.

## EXPRESSING SENSE OF CONGRESS REGARDING REFORM OF INTERNAL REVENUE CODE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 141.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 141, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 128]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence

Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Brady (TX)
Crenshaw
Dooley (CA)
Gephardt
Houghton
Hunter
Issa
McCarthy (MO)
Paul
Rogers (MI)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining on this vote.

□ 1243

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ISSA. Mr. Speaker, on rollcall No. 128 I was inadvertently detained. Had I been present, I would have voted "yea."

## EXPRESSING SUPPORT FOR RENEWED EFFORT TO FIND PEACEFUL, JUST, AND LASTING SETTLEMENT TO CYPRUS PROBLEM

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 165, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and agree to the resolution, H. Res. 165, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 12, as follows:

[Roll No. 129]

YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Brady (TX)
Conyers
Crenshaw
Deutsch
Dooley (CA)
Gephardt
Houghton
Hunter
McCarthy (MO)
Miller, George
Myrick
Paul

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1251

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. BRADY of Texas. Mr. Speaker, I regret that I missed rollcall votes 127, 128, and 129 earlier today. I was in a meeting with the five Central American presidents in town today to discuss the Central American Free Trade Agreement. Had I been present, I would have voted "yes" on all three bills: the Conference Report on S. 151, the PROTECT Act; H. Con. Res. 141, expressing the sense of the Congress that the Internal Revenue Code of 1986 should be fundamentally reformed to be fairer, simpler, and less costly and to encourage economic growth, individual liberty, and investment in American jobs; and H. Res. 165, expressing support for a renewed effort to find a peaceful, just, and lasting settlement to the Cyprus problem.

PERSONAL EXPLANATION

Mr. CRENSHAW. Mr. Speaker, I was unavoidably detained earlier today. I respectfully request the RECORD to reflect that, had I been here, I would have voted ''yea'' on roll No. 127 on agreeing to the conference report on S. 151. I would have also voted ''yea'' on roll No. 128 and 129 on the motions to suspend the rules and agree to the House Resolutions 141 and 165.

ENERGY POLICY ACT OF 2003

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 189 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 189

*Resolved,* That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 6) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour and 30 minutes, with 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and 20 minutes equally divided and controlled by the chairman and ranking minority member of each of the Committees on Science, Resources, and Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 189 is a structured rule providing for the consideration of H.R. 6, the Energy Policy Act of 2003. The rule provides 1 hour and 30 minutes of general debate, with 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and three periods of 20 minutes each to be equally divided and controlled by the chairman and ranking minority members of the Committees on Science, Resources, and Ways and Means.

The rule waives all points of order against consideration of the bill, and makes in order only those amendments printed in the Committee on Rules report accompanying the resolution.

The rule further provides that the amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by a proponent and opponent, shall not be subject to amendment, and shall not be subject to a demand for a division in the House or in the Committee of the Whole.

Finally, the rule waives all points of order against the amendments printed in the report and provides one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 6 is a critically important piece of legislation that will provide for security and diversity in America's energy supply while enhancing energy conservation and research and development. The bill we will consider shortly is a comprehensive measure combining key elements from four separate bills reported by the respective committees of jurisdiction.

The first section of the bill passed by the Committee on Energy and Commerce seeks to expand domestic energy sources while striking a balance between State and Federal regulation of the Nation's electrical power grid. This section of the bill would also increase the strategic petroleum reserve to 1 billion barrels and contains provisions for a renewable fuel standard that requires increased production in the use of ethanol.

The second section of the bill passed by the Committee on Science authorizes $31 billion for energy-related research and development programs, including funding for the President's hydrogen initiative and FreedomCar program, with the balance of the funding going to improvement of renewable energy, energy efficiency, clean coal technology, and nuclear programs.

The third section of the bill passed by the Committee on Resources includes a provision that would open the Alaskan National Wildlife Refuge, or ANWR, to much-needed oil exploration in a way designed to ensure maximum environmental protection of that significant national resource.

Finally, the section of H.R. 6 reported by the Committee on Ways and Means means energy tax provisions amounting to $18.7 billion that would incentivize access to inexpensive energy, bolster our national security by decreasing U.S. dependence on foreign oil, and promote conservation and the use of renewable sources of energy.

□ 1300

As a Member of Congress from the Pacific Northwest, I am particularly pleased, Mr. Speaker, that the authors of this legislation have concluded provisions I have long supported which would streamline the process of renewing permits for major hydroelectric facilities. Many of those projects are located in our part of the country and provide a sizeable share of our region's electrical power needs.

In closing, Mr. Speaker, let me say that the war in Iraq has once again highlighted the importance of ensuring America's energy independence. This bill is designed to do that in an environmentally responsible way. Accordingly, I urge my colleagues to support both the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. SLAUGHTER. Mr. Speaker, I rise today to agree that the United States does indeed need a coherent, comprehensive energy plan. The events of the summer of 2001 clearly illustrate this. The raging power prices and the rolling blackouts in California and the historic implosion of Enron vividly showed America that our energy policies are broken and need to be fixed.

A few weeks ago, the Federal Energy Regulatory Commission ruled that widespread manipulation and misconduct by Enron and 30 other energy companies and the failures of deregulation of the energy industry caused the energy crisis that plagued California in 2000 and 2001. Unfortunately, Mr. Speaker, the bill does not fix what is broken. H.R. 6 does not address any of the lessons learned from the California energy crisis.

The legislation does not provide the Federal Energy Regulatory Commission with any antifraud authority. It does not criminalize the legal abuses by energy corporations that contributed to the California energy crisis.

Instead of providing stronger protections for consumers, the bill would repeal the Public Utility Holding Company Act, which protects both consumers and investors. In fact, some have argued that proper enforcement of the Public Utility Holding Company Act could have prevented the Enron disaster.

The bill fails consumers, but it benefits the giant energy corporations.

When we are facing record deficits and tax cuts upwards of $700 billion, H.R. 6 gives the energy companies $18.7 billion in tax breaks and incentives without paying for them. It is something that we just simply do not do in Congress. Even the executive branch sought only $9 billion in tax incentives.

Examination of these tax breaks reveals that consumers lose again. The lion's share of this money goes to companies for energy production, and only one-third of the tax breaks are aimed at conservation and alternative fuels. Instead of putting so much money into pumping more oil, should not our goal be to reduce the country's dependence on oil?

Another windfall for energy companies is a generous royalty holiday. This legislation would waive royalty collections on large amounts of publicly owned oil and gas in the Gulf of Mexico and off the coast of Alaska. This amounts to a significant taxpayer subsidy of the oil and gas industry when there is no evidence that major oil companies, without the taxpayers' help, will abandon exploration in promising areas in the Gulf of Mexico and Alaska.

Additionally, this bill would allow companies to pay in-kind royalties to the Federal Government. According to the GAO findings, there is no evidence that in-kind royalties generate as much revenue as traditional cash payments. Again, the public loses, and the gentlewoman from New York (Mrs. MALONEY) with her amendment to cure that was not allowed.

The environment and conservationists were also losers. In 1960, the Eisenhower administration protected the Arctic National Wildlife Refuge, recognizing it as an internationally important wildlife conservation area. This underlying area would allow leasing, exploration, and development of 1.6 million acres of the Arctic National Wildlife Refuge. Fortunately, we will be allowed a vote on a bipartisan amendment to preserve the current ban on drilling in ANWR.

Mr. Speaker, several important amendments to this bill were barred by the Committee on Rules. H.R. 6 abandons the bipartisan consensus reached in the previous Congress and adopts changes to the hydroelectric licensing process for the benefit of the hydropower industry at the expense of the environment and wildlife.

Yesterday, in the Committee on Rules hearing, the gentleman from Michigan (Mr. DINGELL), the ranking Democrat on the Committee on Energy and Commerce, and the gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science, offered this agreement as a substitute amendment. Every Democrat on the Committee on Energy and Commerce, save one, voted for this amendment. However, the rule bars us from even considering the amendment.

It is also disappointing that an amendment in the nature of a substitute to the resources portion of H.R. 6 is not in order. The amendment offered by the gentleman from West Virginia (Mr. RAHALL), the ranking member on the Committee on Resources, would, among other things, ensure that the American people receive just compensation from the development of oil and gas resources on Federal lands and waters.

Early this morning, the Committee on Rules, along party lines, refused to make in order an amendment by my friend, the gentleman from Florida (Mr. HASTINGS). This amendment would have the Secretary of Energy mitigate adverse and disproportionate effects that implementation of the energy bill may have on minority, rural, Native American, and other underserved communities.

This seems like common sense. I would hope that these factors would be taken into consideration anyway. It is disappointing that this body is denied the opportunity to discuss this most important issue.

Mr. Speaker, the need for a new and improved energy policy is great and the policy's effects ubiquitous. This is a major policy initiative that demands and deserves thorough deliberation. This special rule provides several hours of debate. In contrast, the other body has set aside 2 weeks for the consideration of energy policies.

Further, this rule only allows 29 percent of the amendments submitted to the Committee on Rules to be offered on the floor. This is not, above all, this is not thorough deliberation.

For all of these reasons and more, I urge my colleagues to oppose the rule and to oppose the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Texas (Mr. BARTON), chairman of the subcommittee that was dealing with the legislation that passed out of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from the Committee on Rules for yielding time to me.

Mr. Speaker, I rise in the strongest possible support of the rule for H.R. 6. I would like to point out a few facts.

There are 22 amendments made in order under this rule. Fifteen of these 22 are either minority-sponsored amendments or bipartisan amendments that are sponsored by a member of the minority party and the majority party, 15 out of 22. That is over two-thirds of all the amendments that are going to be debated on the House floor either have a minority sponsor or a minority and a majority sponsor. I think that is exemplary in terms of bipartisanship.

I would also point out that we have made in order under this rule 1½ hours of general debate and 6 hours of debates on the amendments. That is 7½ hours of debate on H.R. 6. That is approximately double the average amount of time that is made in order under the House rules for authorization bills of this type. So I think the Committee on Rules has acted in a very appropriate fashion to make in order a large number of amendments, 22 amendments, which I believe are more amendments than were made in order for the bill last year. Again, 15 of the 22 have a minority sponsor or a minority and a majority sponsor.

Let me talk about the base bill. H.R. 6 is a combination of bills that have come out of the Committee on Ways and Means that deal with the tax issues for energy; the Committee on Energy and Commerce, where the bulk of the bill originates from, and deals with the basic energy policy of this country; the Committee on Resources, which deals with the issue of ANWR and our Federal lands use; and the Committee on Science, which deals with the R&D component of our energy policy.

I know the Committee on Energy and Commerce passed its bill on a bipartisan basis 36 to 17, with all the Republicans voting for it and 6 of the 23 Democrats that voted that night voted for it, and I believe the other bills also had bipartisan majorities as they came out.

What the bill attempts to do is set a broad-based energy policy for this country for all of our conventional energy sources and our emerging new energy resources, and combine that with a very comprehensive set of conservation and renewable environmental protections, and then begin to invest in the future in terms of the emerging issues like the hydrogen fuel initiative.

For the first time in the House, we have, I think, a very, very comprehensive title on electricity. Fifty percent of our energy is generated in the form of electricity, and in the bill that we reported out last year we did not have an electricity title. This year we not only have an electricity title, we have an electricity title that has been voted on on a bipartisan basis in subcommittee, and it has been voted on on a bipartisan basis in full committee.

What this electricity title would do if it becomes law, it would create a national transmission system for the 21st century for the movement of electricity around the country. It does this without violating States' rights. There are no Federal mandates in the electricity title where a State has to do this, a State has to join a regional transmission organization, a State has to allow Federal siting decisions. In fact, there is specific protection on the native load of closed States and those States that do not wish to subject their native load to any kind of Federal Energy Regulatory Commission jurisdiction.

So the electricity title which has been, at least in the bill from the Committee on Energy and Commerce, the most controversial part of the bill, I think has been well tested and modified and amended so it would address many of the needs of Members on both sides of the aisle.

On the hydroelectric reform title that came out of the Committee on Energy and Commerce, the distinguished ranking member, the gentleman from Michigan (Mr. DINGELL), is absolutely correct in that the House adopted a provision on hydro reform in last year's bill that he was very supportive of and very active in helping to reach a compromise.

We took what we did in last year's bill and built on it. The primary difference between last year's bill and this year's bill on hydroelectricity reform is that we took the situation where we have a mandatory condition, that a Federal agency can set a mandatory condition to renew a license of an existing hydro project. Under current law, that Federal agency, there is no appeal of it; there is really no alternative input to that setting of that mandatory condition. This year's bill says there has to be an alternative allowed if the applicant wishes to put forward an alternative, and I think that is an improvement.

Mr. Speaker, I rise in the strongest possible support and hope that we would pass this bill in a bipartisan fashion.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

(Mr. DINGELL asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. DINGELL. Mr. Speaker, I rise in opposition to the bill, I rise in opposition to the rule, and I rise in opposition to the previous question. None of them are in the public interest and none of them should be voted for.

The simple fact of the matter is that if this bill is as good as the chairman of the subcommittee has just indicated, then they ought to give us a fair and an open rule. That is not before us today at all. It is a rule which denies a number of Members the opportunity to offer amendments, one of the traditional classical rights of a Member of this elected body, and one of the distinguishing characteristics of this body versus many of the others. That right is denied.

Very specifically, with regard to the question of the conservation in the hydro relicensing provisions, that provision is a bad provision. It is opposed by State conservation organizations, by State regulatory entities, and it is also opposed by every hunting, fishing, conservationist, and environmentalist group in the United States.

It is a bad provision. It puts the thumb of the electrical utility on the licensing and relicensing process. It denies citizens and citizens' groups rights to be heard before the Federal Energy Regulatory Commission. It sees to it that we have a skewed result.

It does not, for example, require that fishways be included in dams which are relicensed, so as to denigrate the opportunity of fish to migrate up and down the stream.

It does deny citizens the right to be heard before regulatory agencies. The communities of interest in this country oppose it. Conservationists say it denies them the right to be heard.

I had sought to have an opportunity to offer an amendment to this, one which would be the exact same language that was bipartisan last year and on which the chairman of the Committee, the gentleman from Louisiana (Mr. TAUZIN), sent a Dear Colleague letter around describing the amendment that I would like to have offered today, saying, ''The hydroelectric licensing language contained in Division A of H.R. 4 is a bipartisan consensus provision that carefully balances energy and environmental priorities to achieve the significant breakthrough in licensing reform.''

□ 1315

They are afraid of that. They will not allow that amendment to come to the floor so they say, you cannot offer it. The reason is, it probably would have carried.

So if you were to believe that this is a bipartisan package, then my suggestion to you is, take a look at the rule and ask the Members of the Republican side why it is they do not allow us to offer amendments to this bill. What are they afraid of? Why is it they refuse to allow us to protect fish and wildlife and conservation values which were negotiated over many years with the industry in question and which would permit the industry a fair opportunity to be heard, but also the ordinary citizen?

Vote ''no'' on the bill. Vote ''no'' on the rule, and vote ''no'' on the previous question. All of the above are outrageous.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER), a member of the Committee on Ways and Means.

Mr. WELLER. Mr. Speaker, first let me applaud and cheer the gentleman from California (Mr. THOMAS), the gentleman from Louisiana (Mr. TAUZIN), the gentleman from California (Mr. POMBO), and the gentleman from New York (Mr. BOEHLERT) for their leadership in bringing this very, very important legislation to the floor.

This is important legislation. We are all very concerned about the economy today. This is the first major jobs-related legislation that has come to the floor. This legislation will create jobs and it will also reduce our dependence on imported sources of energy.

Today, I want to draw attention to a key conservation component that is included in this legislation before us. Conservation is a key component of this balanced legislation, and it is also a big win for consumers and for homeowners. This legislation includes the Save America's Valuable Resources Act; H.R. 1459 was included in the Energy Policy Act in 2003. This legislation is a big win for consumers and homeowners because it provides up to a $2,000 tax credit for homeowners to make their homes more energy efficient.

Think about this: Under this legislation they will be able to obtain up to a $2,000 tax credit, 20 percent of the first $10,000 they spend in making their homes more energy efficient. To qualify for this tax credit, homes must be made 30 percent more energy efficient according to the 2000 International Energy Conservation Code, a private-sector energy code used here in the United States. Covered supplies include windows, insulation, calking and sealers, air conditioning and heating units.

If you think about it, if you look at the statistics, residential use matters. It has a big impact on our consumption of energy in America. Recent figures show that homes account for almost one-fifth of all the energy that is consumed; twenty percent of the energy that is consumed in our country is used by residential consumers. Today, it costs the average American $1,500 to heat and cool their homes each year. That amounts to a cost of $150 billion annually that is spent by homeowners and consumers on heating and cooling and use of energy in their homes.

By simply making changes in energy efficiency in one's home, consumers can save real money. Consumers can save 10 percent or more on energy bills by simply reducing the number of air leaks in their homes by doing better sealing and calking. Double-paned windows with low-emissivity coating can reduce heating bills by almost a third in places like Chicago. And if all households upgraded their insulation to meet the International Energy Conservation Code level, the Nation would experience a permanent reduction of annual electric consumption totaling 7 percent of the total consumed.

This legislation is balanced. This legislation is a big win for consumers. It is also a big win for homeowners. This legislation reduces our energy dependence on foreign sources and creates jobs, our number one priority today in the Republican House of Representatives. It deserves bipartisan support.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, I thank the gentlewoman for New York (Ms. SLAUGHTER) for yielding me time.

Mr. Speaker, on behalf of majority of the Democratic Caucus of the Committee on Resources, I had sought to have made in order an amendment which would have substituted the Committee on Resources' provisions of H.R. 6. Unfortunately, this amendment was not made in order, and it is worthwhile to note what we did proposed in that substitute alternative.

Rather than exploiting environmentally sensitive areas, we proposed to facilitate the delivery of over 35 trillion cubic feet of gas from developed fields in the North Slope to the lower 48 States, and do so with the benefit of Buy American and project labor agreement protections.

Rather than grant a royalty holiday to oil and gas companies, we proposed to ensure that the American people receive a fair return for the disposition of their resources by cracking down on royalty underpayments. Rather than potentially disrupting the distribution of western water to farmers and cities by emphasizing hydropower over all other purposes, we proposed to relieve transmission constraints in the western power grid.

And, as Democrats, we also proposed to redouble the commitment to the Land and Water Conservation Fund.

The Democratic alternative to the Committee on Resources Republican energy provision was about energy development, empowerment and endowment; the development of renewable energy resources on our public lands in offshore areas and the development of a more efficient electricity transmission highway in the 15 States that lie within the Western Area Power Administration's territory; the empowerment of Indian country and the contribution they can make to our national energy mix; and the endowment to coastal communities of pristine beaches, environmental wildlife habit, and the economic prosperity these attributes make; the endowment to the coal-field communities of the necessary resources to combat the constant threat they face from abandoned coal mines.

Unfortunately, Mr. Speaker, the debate will not take place today on these issues due to the restrictive nature of the rules.

I would echo the words of the dean of the House, the ranking member on the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL), and say, let us defeat the bill, let us defeat the rule, and let us defeat the previous question.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentlewoman for yielding me time.

This rule does not allow the Democrats to make the amendments which are appropriate on the environmental side. The gentleman from West Virginia (Mr. RAHALL) is looking at an innovative, more balanced approach to Federal lands, and the gentleman from Michigan (Mr. DINGELL), to ensure that our hydroelectric laws are protected so that conservation and fishing and other issues are given the same weight as the generation of electricity.

The Waxman amendment would reduce imported oil by 600,000 barrels. The amount that we import from Iraq, that is not put in order.

The Oberstar amendment, which would change the relationship between the Clean Water Act and oil and gas drilling in the United States, reducing the amount of protections that are given against the water of our country being polluted.

And at a higher level, this bill, in general, is completely unbalanced.

I think the American people, as they are watching this debate, probably assume that since we put 70 percent of all of the oil which we consume in this country into gasoline tanks, that we will probably be changing that so we can reduce the amount of oil that SUVs and light trucks and automobiles consume in our country, so that Iran and Saudi Arabia and other countries, we are not sucked even deeper into their internal affairs. But no, the majority bill, the Republican bill, does not do anything about our dependence on imported oil, due to our ever-increasing dependence on imported oil because of the inefficiency of our vehicles.

The Democrats want to make these vehicles more efficient, keep the same size weight and the same safety, but make sure that they consume less oil. We are at 65 percent dependence upon imported oil today. We will be at 75 and 80 percent by 2010 and 2015 on imported oil unless we do something about where we put that oil after we bring it into our country.

This is not a fair rule. Other amendments should have been put in order. I urge a ''no.''

Mr. HASTINGS of Washington. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Speaker, I would like my good friend from Massachusetts (Mr. MARKEY) to come back to the microphone, please. I just want to ask my good friend if he is going to support the Boehlert-Markey amendment that was made in order under the rule on CAFE.

Is that one of the amendments that he is glad the rule made in order?

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, that is an excellent amendment. I am looking forward to the gentleman's support on that when we debate it, yes.

Mr. BARTON of Texas. Mr. Speaker, what about the Markey-Johnson amendment that would prohibit drilling in ANWR? Is that an amendment that the gentleman is pleased that the rule made in order?

Mr. MARKEY. Mr. Speaker, that, as well, is an amendment which we are hoping for support.

Mr. BARTON of Texas. So it is not a totally bad rule. There are some amendments made in order under the rule that the gentleman thinks are appropriate?

Mr. MARKEY. Mr. Speaker, I am not saying it is a totally bad rule. Obviously, there are some amendments which have been put in order that are appropriate.

What we are saying is that the American people have an expectation that the Congress of our country, at a minimum, would look at all of the rest of the issues, as well, and not exclude them from debate here on the House floor.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

(Mr. ENGEL asked and was given permission to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I thank the gentlewoman for yielding me time.

I rise in opposition to this rule. Those of us who are on the committee wanted the opportunity, as we had in committee, to put forward some very, very important rules. We were denied that opportunity.

We discussed the renewable fuel standards, for instance, last week in the markup in the committee, in the dark of night. Now the Committee on Rules is refusing to allow us to debate the ethanol mandate in the light of day. The ethanol mandate will increase gasoline prices in New York and wherever else it is not readily available.

The Committee on Rules also refused to allow two amendments that I cosponsored to help reduce the impact that the ethanol mandate will have, particularly on New York. The first amendment was offered by the gentleman from California (Mr. OSE) and it would have allowed refiners to produce gas that is clean, if not cleaner than gas blended with ethanol, to receive a credit for ethanol.

The second was offered by the gentlewoman from California (Mrs. CAPPS) that would have authorized a national phase-out of MTBE.

I am deeply disappointed in this rule. We could have allowed one amendment, which really would have discussed the ethanol mandate, and it was rejected. It is really an unfair rule and I urge my colleagues to vote ''no.''

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, may I inquire how much time is left?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Washington (Mr. HASTINGS) has 17 minutes remaining. The gentlewoman from New York (Ms. SLAUGHTER) has 16 minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, there is nothing wrong with this rule except the fact that it will doom America to a failed energy policy that will not get us out of the problems we are now in.

Everyone in this country knows that our addiction to Mideast oil is a chronic security threat in this Nation. But even the authors of this underlying bill will tell you it will not solve that addiction. It is an abject failure. Almost everyone in this country knows that we have a problem with global warming that America needs to address, and even the authors of this bill will tell you this bill will be an abject failure in dealing with global warming and will do nothing about it.

Almost everybody in this country knows that we want to stop hemorrhaging jobs to the Germans in solar energy and the Japanese in hybrid cars and the Danish in wind turbine technology, and even the authors of this bill will tell you this will be an abject failure in solving that challenge.

This bill is weak tea, and this rule will deny a bold American plan to deal with it. We and a group of other Democrats offered a comprehensive package, a new Apollo Energy Project, an energy project which is akin to what John F. Kennedy suggested in 1961 when he said we should go to the moon in 10 years. We say we should be breaking addiction to Mideast oil and dealing with global climate change gasses in this decade. And you would not even allow a rule to allow a vote on that project.

You yielded a lot of little dibs and dabs. You allowed hors d'oeuvres, but you did not allow the full meal deal for this Congress to work its will.

If you are going to try and sell an Edsel policy to the U.S. Congress, you ought to at least allow a vote for a nice car, a nice, fuel-efficient car; and you did not do that.

It seems to me that you ought to allow the U.S. Congress to have one small step for Congress and one giant leap for American energy policy. And you failed to allow us to work Democratic will.

It is an irony to allow democracy in Iraq, but not on the floor of the House of Representatives. Defeat this rule.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentlewoman yielding me time.

□ 1330

I enjoyed the exchange between the gentleman from Massachusetts and the gentleman from Texas about the elements that are in this rule, and I am here to express appreciation for at least being able to debate the big three, the big three being CAFE standards, Arctic and, of course, bicycles.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, who is the bicycle amendment from?

Mr. BLUMENAUER. I think I was involved with that.

However, the rule is a missed opportunity for taxpayers, the environment, and energy. It has some serious assaults on the environment that will mortgage the next 50 years of our environmental future because of a few short-term energy challenges. I am disappointed that the rule would not allow us to make it better.

I did reference the bicycle pilot project. That is something that will enable the Federal Government to educate commuters and provide funds to zero in on exactly what benefits will accrue in terms of energy as a result of cycling, and I think that is important. It is a net benefit for the environment. Every mile that is spent cycling to work or shopping is a mile not traveled by a car. It reduces congestion, protects the environment, and reduces our dependence on foreign oil.

I am sad that we were not able to correct the inequity in the current tax structure that subsidizes people to drive as opposed to using other alternatives. We should have the commuter choice alternative that would have provided balance so taxpayers can make the decision based on what is the best transportation and energy choice for them, not skewed by the Tax Code.

It is a missed opportunity to debate amendments to reduce taxpayer subsidies for fossil fuels, reduce the negative impacts on the environment and oil consumption and shift to alternatives. I am sorry that we were not able to even debate the sense of Congress resolution that passed the other body unanimously that puts us on record to demonstrate leadership and responsibility to deal with global warming. This is a matter of life and death for the planet; and to me, it is inconceivable that we are not able to have it on the floor to debate it.

Mr. Speaker, it seems to me instead of taking an opportunity to have conservation and clean sources of energy to address the concepts of global climate change, we are nibbling around the edges. This bill, even if we are able to get the amendments that are important, that are in order, if they were approved, it is still going to leave us with a flawed bill that is expensive, backward-looking, and too small.

I appreciate the courtesy of the Committee on Rules as far as they went. I am looking forward to the debate, but I hope that we will be able to defeat the rule, defeat the bill. We can do better.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I rise in strong opposition to this rule for many reasons, but also because one of my amendments, an amendment that would have struck an anti-taxpayer, pro-industry provision that is a terrible idea, will cost more money and is a generous gift to the oil and gas industry, striking this provision was not permitted with my amendment. We should not be giving the Interior Secretary permanent ability to use a barter system to collect payment for oil and gas removed from public land instead of just collecting cash based on fair market value.

The royalty-in-kind program, or this barter system, is a terrible idea, returning us to the murky days of industry dictating energy policy. The oil and gas industry has a long history of underpaying government and short-changing the taxpayers; and in a bipartisan way, with former Member Steve Horn, we did a series of studies and reports that showed the industry was underpaying government. The Justice Department got in there and forced them to pay $425 million because they were underpaying the government.

When we finally moved them to a rule that was fair-market value, the industry pushed for the barter idea, the royalty-in-kind program. We had a pilot program that the General Accounting Office says they cannot even figure out how it works. They say they cannot even figure out how the royalty-in-kind program works, and the CBO says that it costs more money.

While the rest of the world is moving to the private sector managing resources under the direction of the oil and gas industry, the Federal Government, instead of taking cash or fair market dollars to the tune of $7 billion, now wants to manage these resources and resell them. It is a terrible idea. It costs money. It costs more money. It is a give-back to the oil and gas industry. It is outrageous. It should be struck from this bill.

Vote ''no'' on the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, I thank the gentlewoman for yielding the time to me.

Mr. Speaker, I rise today to speak on the rule for H.R. 6 and, in particular, an amendment made in order by that rule, and that is the Markey-Johnson amendment to prohibit drilling in the Arctic National Wildlife Refuge.

I strongly oppose drilling in the refuge, one of our Nation's most treasured places. The coastal plain is a priceless piece of American wilderness that has been set aside for future generations in recognition of its unique wildlife values. We should not steer our energy policy to drilling in this remote wilderness area, the biological heart of the refuge, home to caribou, polar bears, grizzlies, musk oxen, and migratory birds.

Drilling in ANWR would be extremely shortsighted. The scant amount of oil we would wring from this pristine area, estimated by the U.S. Geological Survey to be the amount the U.S. consumes in just 6 months, would cause irreparable damage to the area. By drilling there, we would set a dangerous precedent that no wilderness is sacred.

There is an even more important reason to oppose drilling in ANWR, and that is because ANWR is merely the most graphic example of the wrong-headed nature of our energy policy. We cannot drill our way out of our energy dependence. We cannot drill our way out of our dependence on foreign sources of oil.

I believe in the American entrepreneur. I believe in that spirit. I believe in our ability to develop technologies that will dramatically reduce our dependence on fossil fuels. Many of those technologies already exist. Many of them are on our roads. They have just to be incentivized, to be cultivated and developed further.

The biggest lost opportunity of this administration has been the failure to set a goal for this country of cutting our dependence on fossil fuels in half in the next decade. This would wean us from foreign oil. This would clear our air, and this would preserve once and for all the sacred places like ANWR.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise in opposition to this rule and this bill. It is beyond comprehension that this Chamber is considering an energy policy that would increase our dependence on oil and nuclear power. This is 20th century thinking, totally out of sync with 21st century realities.

Let me remind my colleagues, there is no safe method to get rid of deadly nuclear waste. Yet the administration is pushing a massive and costly expansion of nuclear reactors, 50 more of them scattered throughout cities across this country. They will generate tens of thousands of tons of additional deadly nuclear waste.

The shame of this policy, the shame of it is that there are responsible and clean alternatives to nuclear power. We should be investing in these clean, renewable energy alternatives, wind, solar, geothermal, not in nuclear energy. For the safety and security of our kids and future generations, I urge us not to pass this very foolish piece of legislation.

My State of Nevada has made a wise decision to require that alternative energy sources provide a substantial amount of the power that Nevadans use. This is a forward-thinking policy that should be the model for the Nation so we can reduce our need for fossil fuels and nuclear power.

The bill we are considering today is not balanced, and it clearly does not create a plan for America's energy viability or our future energy independence. I urge my colleagues to vote against this legislation.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule. Contrary to many of the things that have been said by my colleagues on the other side of the aisle, we have literally turned ourselves inside out to try and accommodate the concern of the minority. Members of the Committee on Rules and staff stayed until two o'clock this morning, and the Committee on Rules convened at seven o'clock this morning, working very hard to go through the 77 amendments that had been filed for consideration.

As we look at the committee process, my friend, the gentleman from Louisiana (Mr. TAUZIN), is here, the gentleman from California (Mr. POMBO) is in the back of the Chamber, two very important authorization chairmen of the committees that considered this effort. We also had the gentleman from New York (Mr. BOEHLERT) and the gentleman from California (Mr. THOMAS), the other two committees that considered this. In their work they went through 88 amendments through this process.

I remember the gentleman from Louisiana (Mr. TAUZIN) said in his testimony there were 32 votes that took place in his committee. Of the 88 amendments that were considered through this whole process, 74 of them were offered by minority Members, and 14 were offered in either a bipartisan way or by majority Members.

So we have obviously, through this process, with four very large committees involved, provided Members with an opportunity to consider a wide range of issues.

I heard my dear friend and fellow Californian (Mr. SCHIFF), I am honored to represent the district that adjoins him, stand up and talk about the debate on the Arctic National Wildlife Refuge. We are going to have a very full and vigorous debate on that issue. This rule allows for consideration of that measure.

We are going to have an opportunity to consider a wide range of other concerns that have come forward.

Mr. Speaker, back in 1992, energy legislation was considered in this House; and quite frankly, the percentage of minority Members' amendments that were offered were 27 percent. Twenty-seven percent of the Members that were Republicans at that point in 1992 that offered amendments, 27 percent of the amendments that were made in order at that time were offered by Members of the minority.

In this bill that we are going to be considering today, over 54 percent of the total amendments are offered by minority Members. That is a 38.3 percent increase in the number of minority amendments allowed from the 1992 bill.

We also have to realize that we have got four bipartisan amendments that are being offered of the total that we have made in order.

Mr. Speaker, this is a very fair rule. We are going to have a debate on a wide range of very important issues. It has been 11 years since this place has really moved ahead with a full debate on energy legislation. We all know how important this is.

Just down in Statuary Hall, Mr. Speaker, I was participating in a ceremony in which we are honoring our courageous men and women in uniform who have fought so vigorously over the past 21 days in Iraq, liberating the people of Iraq; and some have talked about the issue of that versus debate here. This is a very fair and balanced opportunity for us to consider a question that is going to be critical to our Nation's national security future and to our Nation's economic future, and so I hope very much that we can pass this rule in a bipartisan way.

Let me say again, I hope that we will have a bipartisan vote in support of this rule because we have worked very hard to try and make as many minority amendments in order as possible so that we can have that free-flowing debate.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

If I can take a moment first just to say to my good friend from California, and he is my good friend, that we are not sure that 10 minutes is sufficient for a full debate on ANWR; but, nonetheless, that was my only remark.

Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise today to oppose the rule on H.R. 6. This rule does not allow for consideration of critically important amendments, including an amendment submitted by the gentleman from Michigan (Mr. DINGELL) on hydropower relicensing reform.

I oppose title 3 of this bill because it creates a superstatus for hydropower license applicants by creating new procedural rights that are not made available to other interested groups. It also reduces environmental protections by allowing Federal resources agencies to set new minimum standards for environmental performance, including land protections and fish passages requiring agencies to consider the private economic interests of applicants on an equal footing with public resources.

I also strongly oppose this legislation because it places the interest of the applicant far above the interest of States conservationists, Indian tribes, sports fishermen and the general public.

□ 1345

This title prevents Indian tribes from participating in the relicensing process, even though more than 70 non-Federal hydropower projects today exist on tribal lands. It is unacceptable the tribes would not have an equal say in the impact on their resources and must be, they should be included in the process.

This rule should have allowed the amendment of my colleague, the gentleman from Michigan (Mr. DINGELL), as it provides for fair consideration of the interests of thousands of Americans and American Indians impacted by hydropower projects as well as the licensed applicant.

Mr. Speaker, I oppose the rule. I know the previous speaker said it is fair, but I do not think it is fair because it did not allow the Dingell amendment and other critically important amendments.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I rise to oppose the rule and oppose the underlying bill.

We need to take our heads out of the sand. Energy independence is the most important issue facing America today. Fifty-eight percent of our oil needs come from foreign sources. Twenty percent of our imports come from the Persian Gulf, 40 percent from OPEC countries.

What else do we know about this problem? We know that 45 percent of our oil consumption goes into cars, yet this bill fails to adequately address the problem of fuel efficiency standards. That is unfortunate. We need a strong regime of fuel efficiency standards.

Their answer, on the other hand, is ANWR, let us drill in the Arctic Refuge. Unfortunately, according to the U.S. Geological Survey, this is inadequate. At best, it will yield 300,000 barrels a day. By the year 2015, the United States will be consuming 24 million barrels a day. ANWR is not the solution.

They will say, well, this will give us a little more oil. Yes, but they do not tell us that there is no prohibition against exporting that oil; that is to say, the people bringing it out of the ground could easily export it to France for more money and we would not get the benefit.

What do we need to do? We need to talk about fuel efficiency and hydrogen cars. This bill woefully underfunds hydrogen fuel cell technology. It proposes $1.79 billion, and that would give us hydrogen cars by 2020. That is not good enough. I suggest we spend about $5.3 billion, take on the task as Kennedy took on the task of putting a man on the moon, and say, we are going to do this quicker. We are going to do this in 10 years, and we are going to fund the technology necessary to give us energy independence through hydrogen fuel cell cars.

I think we can do it, Mr. Speaker. I urge us to reject the bill and the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time.

First, Mr. Speaker, I am going to ask for a ''no'' vote on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will make in order all the Democratic amendments that were offered in the Committee on Rules yesterday. Fifty-five very responsible and thoughtful amendments were submitted by Democrats, but only 15 were made in order.

Please vote ''no'' on the previous question so we can add those amendments rejected by the Committee on Rules.

Mr. Speaker, I ask unanimous consent that a description of the amendments be printed in the RECORD immediately prior to the vote.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume to reiterate that this is a very fair rule. Over two-thirds of the amendments made in order are either bipartisan or amendments from the Democrat side of the aisle.

I also would like to say, Mr. Speaker, that the war in Iraq, I think, has awakened America to a need that we have to be more energy independent. This bill, this comprehensive bill, I think, allows for that in a long-term planning way, and I think it does it in a very environmentally friendly way.

Ms. JACKSON-LEE of Texas. I represent Houston, TX, arguably the Energy Capital of the World. The American economy and the American way of life are critically dependent on access to stable sources of affordable energy. As our economy grows and develops, we must balance our energy needs with the needs of our environment, the needs of our children to have clean air to breathe, and the needs of future generations of Americans to be free from dependency on foreign nations. It is essential that we craft an excellent strategy for striking that balance, and providing for the energy needs of the 21st century. It is essential that the strategy be fair to all stakeholders, and be cognizant of evolving needs.

A challenge so great deserves great attention to detail, a full exploration of varying ideas and opinions, and careful deliberation, and votes. This rule does not provide for such deliberation. When excellent amendments from my colleague from Michigan, Mr. DINGELL, the Dean of the House and the Ranking Member on the Energy and Commerce Committee—and from my colleague from West Virginia, Mr. RAHALL, the Ranking Member on the Resources Committee—are ruled out of order, something is wrong with this rule.

There are many other amendments that should have also been made in order, such as an amendment that would have increased nuclear safety and saved money by requiring external regulation and monitoring of the Department of Energy. The amendment received bipartisan support in the Science Committee, because everyone knows that self-regulation is rarely effective. It passed in the Science Committee markup of H.R. 6, but mysteriously was cut out on the way to the floor of the House. That amendment, which followed recommendations from the National Academy of Sciences, and was accepted by the Science Committee, cannot even be debated on the floor of the House today—something is wrong with this rule.

The list goes on and on. Again I state, energy is too important to the American lifestyle, and to the American economy. It deserves thoughtful debate. If we do not get this right, we could doom ourselves to another decade of California energy crises, Valdez oil spills, Enron disasters, global warming, and environmental non-compliance.

I vote "no" on this rule. We must do better.

Mr. TAUZIN. Mr. Speaker, I rise in strong support of this rule. Let me commend Chairman DREIER and the Members of his Committee for crafting a rule that will allow the House to work its will on the full range of energy policies that are contained in H.R. 6.

This bill represents the very hard work of several committees of the House, including Energy and Commerce, Ways and Means, Resources, Financial Services, and Science. It also includes provisions in the jurisdiction of a number of other committees, including Transportation, Armed Services, and Judiciary, with whom we have been working very closely. We have not enacted a comprehensive energy bill in eleven years. Much has changed in the world since then, and it's time that we reconfigure our energy policy to fit the 21st Century.

Division A of the bill before you—the bulk of my committee's work product—does just that. We dramatically increase energy efficiency and conservation measures. The bill provides for increased oil, gas, and hydropower production, and a safer nuclear future. We also modernize the Federal role in electricity regulation. And we have crafted a delicate compromise on reformulated gasoline that will provide environmental and energy-savings benefits.

Let me note for the RECORD that, if anything, this rule is even more fair than the one we employed two years ago during the comprehensive energy debate. That rule allowed just sixteen amendments, while the one before us allows over 20. All Members will have a full and fair opportunity to debate the energy policy of this nation.

Mr. HASTINGS of Washington. The material previously referred to by the gentlewoman from New York (Ms. SLAUGHTER) is as follows:

PREVIOUS QUESTION FOR H. RES. 189—H.R. 6, THE ENERGY POLICY ACT OF 2003

The following are the amendments made in order under the rule:

Berkely #67 Division A. Requires the General Accounting Office to conduct a study to provide accurate and real costs of indemnifying those who would be harmed by a potential nuclear plant accident or attack.

Berkley #71 Division A. Establishes a program to make loan guarantees for qualifying businesses investing in renewable energy solutions.

Blumenauer #53 Division D. Extends the Transportation Fringe Benefit to commuters who carpool, bicycle, or used car-sharing and equalize the transit benefit with the current level offered to qualified parking plans. Allows up to $50 per month for carpoolers, bicyclists, or those using car-sharing to commute to work. Increases the benefit available to transit commuters to $190 per month, the same amount as qualified parking plans.

Boucher #6 Division A. Strikes the provision of the bill related to the Federal Energy Regulatory Commission (FERC) transmission siting authority on private lands and would thereby leave decisions regarding the location of new transmission facilities with individual states.

Boucher #7 Division A. Strikes the provision of the bill related to the Department of Energy (DOE) transmission siting authority on federal lands and would thereby leave the decisions regarding the location of new transmission facilities with the federal entities responsible for managing such lands (e.g. the Department of Interior, the Bureau of

Land Management, the U.S. Forest Service, etc.).

Capps #23 Division A. Adds four-year national phase-out gasoline MTBE.

Capps #25 Division A. Strikes section 12401 relating to appeals for LNG siting decisions, the Coastal Zone Management Act, and the National Environmental Protection Act.

Carson #76 Division A. Strikes the ''Indiana Amendment'' from the Uniform Tie Act of 1966.

Costello/Calvert #8 Division B. Terminates the DOE's authority to regulate itself with regard to nuclear and worker safety at the Department's non-military energy laboratories within two years of enactment. Transfers regulatory authority to the Nuclear Regulatory Commission and to the Occupational Safety and Health Administration (OSHA). It is estimated that enacting the external regulation at the labs would save DOE up to $41 million annually.

Davis (VA)/Waxman #60 Division A. Requires that a small percentage of the energy used to power federal facilities come from renewable energy and fuel cells. Beginning in 2005, federal agencies would be required to obtain from these sources 1.5% of the energy used across their facilities, gradually rising to 7% in 2012 and beyond. Agencies could meet these requirements either by generating energy on-site or by purchasing renewable electricity generated off-site. Agencies would receive extra credit for on-site renewable energy generation that also contributes to national security. Allows the Secretary of Energy to waive the requirements if the agency is taking all practicable steps and the requirements would pose an unacceptable burden. Permits federal agencies to count acquisitions of future technology vehicles, such as fuel efficient hybrid-electric or fuel cell vehicles, against alternative fuel vehicle acquisition targets.

DeFazio #11 Division A. Current law provides that the Strategic Petroleum Reserve may be drawn down in the event of a ''severe energy supply disruption,'' which results in ''a major adverse impact on the national economy.'' The DeFazio amendment would add ''or on a State or regional economy,'' after ''national economy.''

DeFazio #12 Division A. Adds ''anti-competitive conduct'' by foreign countries, or producers, refiners, or marketers of petroleum products, to the list of circumstances under which the Strategic Petroleum Reserve may be drawn down.

DeFazio #13 Division A. Strikes the section of H.R. 6 that repeals Public Utility Holding Company Act (PUHCA). PUHCA's restrictions on ownership of utilities, the diversification of business operations, accounting, and mergers, among other provisions, are critical to protecting consumers from the business decisions of energy conglomerates.

DeFazio #14 Division A. Strikes the section of H.R. 6 directing FERC to establish so-called ''incentive-based'' rates for building transmission.

DeFazio #15 Division A. Establishes an Office of Consumer Advocacy at the Department of Justice to protect the interests of residential and small business users of electricity and natural gas in proceedings before FERC and other federal entities.

DeFazio #16 Division A. Sets benchmarks for the commencement of regional transmission organizations (RTOs) on FERC findings that such RTOs would result in net benefits to consumers in each affected state and minimize cost shifts among consumers. Also requires that RTOs have adequate transmission capacity and no chronic congestion prior to start-up, effective market monitoring, and that existing load service obligations are protected, among other criteria.

DeFazio #17 Division A. Prohibits market-based rates from being considered ''just and reasonable'' under the Federal Power Act if the rate raises above the cost-based rate that would otherwise apply.

DeGette #22 Division A. Holds the legislative branch to the same acquisition requirements as all other federal agencies regarding energy-using products, systems, or designs that meet or exceed the energy efficiency standards established by the Energy Star program of the Environmental Protection Agency and the Department of Energy.

Dingell/Boehlert #30 Division A. Substitute amendment for the hydroelectric relicensing title of the bill, which is identical to the version that passed the House last year. Introduces flexibility into the licensing and relicensing of hydroelectric facilities by allowing any party to a licensing proceeding to propose alternatives to the resource and fishway prescriptions made by the resource agencies. The Secretary must accept the alternative, so long as he or she determines it provides the same level of protection for resources, fish, and wildlife and either costs less to implement or would result in more efficient operation of the hydroelectric facility. Requires the resources agencies to establish a process to expeditiously resolve any disputes involving resource or fish and wildlife conditions. Strikes the incentive payment program for hydro-power contained in this title.

Green (TX) #33. Division A. Changes the ''hold harmless'' Low-Income Home Energy Assistance Program (LIHEAP) threshold from $1.95 billion to $1 billion.

Hastings (FL) #69 Division C. Directs the Secretary of Energy to take all necessary steps and efforts to mitigate any adverse impacts that U.S. energy policy and the provisions of H.R. 6 may have on minority, rural, Native American, and underserved communities. Requires the Secretary of Energy to submit to Congress an annual report detailing the Department's efforts to implement this requirement.

Inslee-Holt-Spratt #74 Substitute. Strikes all after the enacting clause. Sets Energy Performance Goals for the country. Provides the tools needed to achieve the Energy Performance Goals. These tools include innovative use of the tax code, investment in R&D, and federal expenditures in existing infrastructure needs. Requires the Administration to set up a monitoring system to track progress towards the Energy Performance Goals. Should measures be needed in addition to the tools provided, the amendment directs the President to initiate voluntary, regulatory, or other actions that may be needed to achieve the Energy Performance Goals. All expenses are offset by freezing the upper income tax cuts scheduled for 2004, closure of the offshore corporate tax loophole, and removal of abusive tax shelters.

Kind #27 Division C. Strikes heading for Title II of Division C and inserts ''(Outer Continental Shelf).'' Establishes a framework for permitting alternative-energy-related uses on the Outer Continental Shelf not already expressly covered by existing statutes. Assigns authority for this program to the Department of Interior's Minerals Management Service which, under existing law, administers federal leasing and operations for oil, gas, and other mineral activities on the Outer Continental Shelf. Specifies the types of areas that should be avoided, such as marine protected areas, and provides for more State and public input throughout the process. Provides a mechanism for identifying, in advance, appropriate sites for developing offshore wind energy facilities that provide the greatest source of energy with the least damage to the environment. Also provides a process for soliciting competing proposals for renewable energy facilities in the same locations and compensation to the government for the value of the license.

Levin #72 Placeholder. Division A. Replaces the vehicle tax incentives provisions in Section D, Title I, of H.R. 6 with a modified version of the Clean, Efficient Automobiles Resulting from Advanced Car Technologies Act of 2003 (CLEAR Act). Expands the alternative vehicle tax incentives, covers a broader array of advanced vehicle technologies, and provides additional incentives for the purchase of alternative vehicles.

Maloney #20 Division C. Strikes Section 30201, a section that makes permanent the Interior Secretary's authority to take royalties-in-kind (RIK) instead of cash payments from leaseholders for oil and gas removed from federal and Indian lands.

Nadler #59 Division A. Adds $30 billion to help purchase and secure excess Russian plutonium and highly-enriched uranium. Authorizes funding to purchase excess Russian plutonium, convert Russian plutonium pits to oxide, and to immobilize and irradiate up to 100 megatons of excess plutonium. Provides for funding to purchase highly-enriched uranium and to make improvements to the security of nuclear material in Russia. Also provides funds to employ knowledgeable nuclear personnel and to downsize facilities.

Oberstar #44 Division A. Strikes section 12403 relating to the permanent exemption for construction activities associated with oil and gas exploratory and production operations from storm-water discharge requirements of the Clean Water Act.

Rahall #3 Amendment in the Nature of a Substitute to Division C. Title I—Alaska Natural Gas Pipeline Project; Title II—Western Area Power Administration; Title III—Energy Alternatives and Efficiency Regarding Federal Lands; Title IV—Establishment of Indian Energy Programs; Title V—Insular Areas Energy Security; Title VI—Sensible Development of Renewable Energy Resources of the Outer Continental Shelf; Title VII—Surface Owner Property Rights and Protection; Title VIII—Royalty Fairness; Title IX—Reclamation of Abandoned Coal Mine Sites; Title X—Land and Water Conservation Fund Enhancement; and Title XI—Coastal Withdrawals. This amendment is identical to the substitute offered by Mr. Rahall to the Committee Print at the Resources Committee's markup on April 2, 2003.

Rahall #5 Division D. Strikes Section 42011 of Division D, relating to the prepayment of premium liability for coal industry health benefits.

Sandlin #75 Replaces the tax division of H.R. 6 and replaces it with the text of H.R. 1436, the Energy Independence and Security Act. Additionally, the Sandlin amendment would offset the cost of the energy tax incentives contained within the amendment by freezing the cut in the highest marginal tax rate.

Stupak #47 Division C. Prohibits any new drilling to extract oil or gas reserves from any bottomlands of the Great Lakes under federal jurisdiction.

Sessions/Hall #34 Division A. Establishes a process to identify and implement actions the federal government can take that will ensure, to the maximum extent practicable, the production of domestic natural gas supplies sufficient to provide residential consumers with natural gas at reasonable and stable prices; provide industrial, manufacturing, and commercial consumers with natural gas at prices that do not result in plant closures and job losses; facilitate the attainment of national amient air quality standards under the Clean Air Act; allow for reductions in greenhouse gas emissions; and to support development of the preliminary phases of hydrogen-based energy sectors. States the goal of the United States should be to produce from domestic natural gas reserves at least 85% of the annual projected domestic demand for natural gas.

Solis #29 Division A. Amends Section 12201 on hydraulic fracturing by striking the current section and inserting language that requires: a completed EPA hydraulic fracturing study and independent scientific review by the National Academy of Science; a regulatory determination by the Administration of the EPA; preservation of federal authority to respond in the future where endangerment or adverse health effects are established. Citizens would be precluded from filing lawsuits to force states to regulate under the Safe Drinking Water Act.

Udall (CO) #31 Division C. Provides for grants of up to $20 per ton to enable operators of biomass facilities to purchase brush, small trees, and other material removed from forests in order to reduce the risk of forest fires. Allows the grant money to be used only to purchase material removed from forest lands near communities.

Udall (CO) #32 Division C. Requires companies developing onshore federally-owned oil or gas to: replace any damaged water supplies; assure any water injected underground does not damage an aquifer; comply with all federal and state laws applicable to water not injected underground; submit a proposed water-management plan with the application for an oil or gas lease.

Udall (NM) #39 Division A. Requires retail electricity suppliers (except for municipal and cooperative utilities) obtain 15% of their power production from a portfolio of renewable energy resources by 2020, increasing to 20% by 2025.

Udall (NM) #41 Division C. Requires the creation of surface use agreements between private landowners, ranchers and farmers, and the oil and gas industry prior to any development of subsurface mineral rights owned by the federal government.

Velazquez #28 Division A. Prevents a disproportionate share of power plants from being sited in low-income and minority communities. Gives citizens greater influence over the permitting and siting process.

Waxman #35 Division A. Sense of Congress that summarizes the current scientific understanding of climate change, its potential effects, and the position of the United States regarding climate change. States that it is the sense of Congress that the United States should demonstrate international leadership and responsibility in addressing climate change.

Waxman #36 Division A. Requires the Administration to take voluntary, regulatory, and other actions to reduce oil demand in the United States by 600,000 barrels per day from projected levels by 2010. Does not per se mandate changes to C.A.F.E. standards.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on the previous question on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 226, nays 202, not voting 6, as follows:

[Roll No. 130]

YEAS—226

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—202

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—6

Davis (IL)
Gephardt
Houghton
McCarthy (MO)
Paul
Taylor (NC)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1408

Ms. WOOLSEY, Ms. CARSON of Indiana, and Messrs. OWENS, KLECZKA, HILL, CASE, and RUPPERSBERGER changed their vote from ‘‘yea’’ to ‘‘nay.’’

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 236, noes 190, not voting 8, as follows:

[Roll No. 131]

AYES—236

Aderholt
Akin
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Markey
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Solis
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—190

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Davis (IL)
Gephardt
Houghton
McCarthy (MO)
Olver
Paul
Platts
Taylor (NC)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining to vote.

□ 1415

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PLATTS. Mr. Speaker, on rollcall No. 131 I was inadvertently detained. Had I been present, I would have voted "aye."

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 189 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6.

□ 1416

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) each will control 15 minutes. The gentlewoman from Illinois (Mrs. BIGGERT), the gentleman from Texas (Mr. HALL), the gentleman from California (Mr. POMBO), the gentleman from West Virginia (Mr. RAHALL), the gentleman from Louisiana (Mr. MCCRERY) and the gentleman from Massachusetts (Mr. NEAL) each will control 10 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I yield myself 5 minutes.

Today we begin taking another step in doing what we have not done in over a decade, advancing a bipartisan, comprehensive American energy policy that will be signed into law. We came very close the last Congress to accomplishing that. Today, this year, with a strong vote on this floor, I believe we will go a long way to finishing the work of the last Congress.

The bill we are considering today reflects America's 21st century values, its technology and certainly our security needs. It advances a balanced approach to energy production and use by encouraging a responsible, diverse mix of energy sources and options along with a significant investment in conservation and increased efficiency. The Energy Policy Act charts a path toward increased energy security and a cleaner environment, in short, secure, reliable, affordable energy for all Americans in a growing economy.

I am proud of the bipartisan work our committee has done in writing several divisions of this bill. The gentleman from Texas (Mr. BARTON), our Subcommittee on Energy and Air Quality chairman, forwarded his work to our full committee by a vote of 21 to 9, and just last week, after considering over 50 different amendments, the Committee on Energy and Commerce reported the bill by a vote of 36 to 17.

The House owes a great deal of thanks to the gentleman from Texas (Chairman BARTON) and to the gentleman from Virginia (Mr. BOUCHER), ranking member, for the extraordinary cooperation, assistance, hard work and willingness to work together. Today, I hope that bipartisan spirit continues. There is no reason why it should not.

The Committee on Energy and Commerce components of the bill are very diverse. They cover everything from energy conservation to hydropower to nuclear energy and electricity, but particularly combined with the work product of the Committee on Resources, the Committee on Science, and the Committee on Ways and Means, they are really about our national security and our economy. Indeed, apart from the appropriations directly related to our war against terrorism and our remarkable success in Iraq, and God bless those American heroes we have seen on television doing such a job for our country, this legislation may be the most important national security bill the Congress will vote on short of our national defense appropriations.

The Committee on Energy and Commerce has pursued two broad and necessary approaches to energy policy. First, it is outlined in the oil and gas title, the hydroelectric title, the nuclear title, the vehicles and fuels, and the electricity titles. First is to increase domestic energy supplies, both the fuels and electricity. That is essential to reducing our Nation's vulnerability to the kind of disruption in the supplies of fuel that we use to power our way of life today.

The other approach, covered in the titles on energy conservation, works on the demand side of energy by dramatically increasing energy efficiency by establishing energy efficiency goals for the Federal Government, by promoting new energy efficiency technologies, and other methods. This legislation will help close the gap between domestic energy supplies and consumption, and in the process, increase our security and our economic growth.

Just as an example, according to the American Council on Energy Efficient Economy, our energy efficiency production features, these provisions to increase the conservation and efficiency, will save 2.8 quadrillion Btus by the year 2020, eliminating the need for about 130 new power plants by the year 2020. That is a remarkable savings in energy this bill will increase.

The Members will hear a lot more about the incredible policy this bill advances, but let me conclude with this thought. Energy legislation has traditionally transcended party lines. What we did in legislating 2 years ago, we did on a bipartisan vote. We saw bipartisanship in the committees as they marked up these bills, and I hope and expect that spirit to prevail as we craft the energy policy for the 21st century.

Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, this is a bad bill. It is an odd mishmash of special interest provisions, deregulatory actions, degradation of our environmental laws. It gives away billions of dollars to powerful industry, courtesy of the taxpayer. It undermines existing environmental protections.

In the area of hydroelectric power, the bill undercuts safeguards for dam relicensing, jeopardizing not only fish but the overall health of our river systems. It weakens the Safe Drinking Water Act and environmental protections and safeguards in oil and gas production.

H.R. 6 eliminates requirements for public participation and deference to the States in decisions where electric transmission lines can be sited and whether natural gas facilities should be constructed in coastal waters. It undercuts natural resource agencies' role in determining whether transmission lines should be constructed in our national forests and on other public lands.

But that is not all. Certain favored industries get big benefits. Energy consumers are left unprotected. I guess average customers and consumers were not in the room when the Vice President held closed-door meetings of his Energy Task Force.

It is hard to imagine a better case for increasing consumer protections than the debacle that took place in 2000–2001 in California and other West Coast electricity markets. In fact, a recent report by the Federal Energy Regulatory Commission, whose Chair was appointed during the administration, found that so many companies participated in Enron's scams that it was necessary to launch multiple new enforcement proceedings, many of which would be adversely impacted by this legislation.

Most shocking, FERC found some practices that significantly raised consumer prices were not only not illegal under current law, but would be sanctified under this legislation.

If there was ever a case for legislative reform, this is it, but this legislation is not legislative reform. It does not help consumers. It only includes cosmetic reforms while repealing important consumer protections under the Public Utility Holding Company Act and weakening protections under the Federal Power Act. Indeed, it also sanctifies fraud.

So if the Members like fraud, vote for the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. BARTON), the distinguished chairman of the Subcommittee on Energy and Air Quality of the Committee on Energy and Commerce.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, I rise in very strong support of the bipartisan H.R. 6 comprehensive energy policy bill that is before this body at this point in time.

Our Nation badly needs a comprehensive energy policy. This bill achieves it. Our economic competitiveness, our national security, and our way of life will all be helped if this bill becomes law.

The bill before us today touches nearly every facet of our energy sector, including electricity. The first 68 pages of the bill are bipartisan measures on conservation and energy efficiency. They were agreed to during the energy conference last year. The bill also targets a diverse and stable portfolio of production so that we are never overly dependent on any one fuel.

For our Nation's security, we will reauthorize and expand the Strategic Petroleum Reserve. We will open for environmentally safe production the portion of Alaska that Congress long ago set aside for that very purpose. We will act upon the President's call in the State of the Union address for hydrogen fuel cell vehicles and the fueling infrastructure that will be needed to make them successful.

Today's bill is better than H.R. 4 that passed the last Congress. We include bipartisan reauthorization of the Price-Anderson Act, a much more sensible Renewable Fuels Standard, real changes to the hydroelectric relicensing process, and badly needed electricity reforms.

Legislation before the House today puts our Nation on a forward path towards better electricity markets. It should further the transition to more effective electricity markets in the following ways: It would increase transmission capacity; it would improve the operation of existing transmission; and it would make wholesale competition even more successful than it currently is today.

Mr. Chairman, I am very proud to be one of the authors of this bill. I am very proud of the work that the gentleman from Louisiana (Mr. TAUZIN), my full committee chairman, has done, the gentleman from Michigan (Mr. DINGELL) has done, the gentleman from Virginia (Mr. BOUCHER) has done and other members of the Committee on Energy and Commerce have done.

I am also very pleased with the work product of the other three authorizing committees that are bringing us this joint bill. This will actually help our Nation. In my opinion, it is the most comprehensive positive energy bill that has been before the Congress in the last 50 years, and I cannot do anything but strongly, strongly urge its adoption.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. BOUCHER).

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

I have a number of concerns regarding the measure that is before the House today, and I will take the occasion of these remarks to outline some of them in the hope that they can be addressed during the amendment process or in the conference with the other body.

During committee consideration of the bill, I strongly urged that the electricity title be removed from the comprehensive bill and that it be considered on a separate track that would give us more time to focus on its complex and controversial provisions. That title unfortunately remains in the bill; and it is controversial, and I am concerned about its presence there.

I am troubled by the provisions that relate to the relicensing of hydroelectric facilities. An agreement was achieved on a bipartisan basis during the course of the last Congress which would have provided flexibility in selecting alternative means for assuring protection of fish resources. That agreement was put aside in favor of language in this bill that offers far less protection to the fish when electricity facilities are relicensed.

The bill opens ANWR to exploration and contains a needless mandate for ethanol use in motor fuels that applies throughout the Nation and will raise the price of gasoline without achieving any net benefit in terms of petroleum savings.

I commend the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Texas (Mr. BARTON), both of whom have conducted an open process for both hearings and markup at subcommittee and full committee, and I look forward to continuing to work with them and with the gentleman from Michigan (Mr. DINGELL) and other Members as we seek to address some of these concerns during the course of today and during the conference with the Senate.

□ 1430

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Chairman, our constituents are concerned about gasoline price volatility. This energy bill addresses part of these concerns by promoting the use of domestic renewable fuels like ethanol. However, current regulations prohibit retailers from commingling ethanol and non-ethanol blended gasoline in their storage tanks. This limits the ability of retailers to provide uninterrupted gasoline service at the best price for their customers and could lead to higher retail prices. We should correct this problem.

I would like to ask my chairman to enter into a colloquy with me on this.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. SHIMKUS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for his comments. I believe it is important that we provide flexibility to retailers who have to be responsible for the renewable fuels program contained in title VII of our bill. As the new renewable fuels program is implemented, consistent with the schedule and waivers available in this title, we should strive to make sure that the current regulations make common sense.

We should not subject retailers to unnecessary requirements that do not provide discernible environmental or public benefit. As we prepare for conference with the Senate, I want the gentleman to know that we are going to work together to resolve this issue.

Mr. SHIMKUS. Mr. Chairman, reclaiming my time, I thank the gentleman for his attention. I look forward to working with the chairman and the House conferees.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the distinguished ranking member for his leadership and acknowledge the leadership of the committee chairman and everybody else involved in this bill. But I rise today in strong opposition to it, and let me state why.

I think we should recognize that this bill neither advances energy independence nor any kind of national security. Instead of becoming less dependent on foreign sources of oil and energy for our national security, this bill is a repeat of the past. What the bill does not improve is the efficiency of automobiles and trucks. Instead, it calls for the sixth government report on motor vehicle efficiency in 10 years.

As a Californian, I have to say that this is the biggest shortfall and loss of opportunity to address what the energy companies did to the State of California. They manipulated, they cheated, they lied, and they ripped Californians off: small businesses, large businesses, consumers, residential homeowners. This is what happened to California. This is no longer speculation. In this bill, there is not one sentence, there is not one phrase that says Californians deserve a refund.

I tried with my colleagues to accomplish this. Thirty-two California Democrats signed on to that amendment and said that if it were offered on this floor today, we would support it. Unfortunately, not one Republican stands to say for their constituents that we deserve a refund. The chairman of the FERC said that the amendment was helpful. I have tried and tried and tried. This is a failure of this Congress to stand up and to do something about this; and I think it is an outrage, because I think it is one of the biggest heists in the history of this country.

So I oppose the bill. It does not provide national security, it does not provide energy independence, and it certainly does not make the wrongs right.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 1 minute to the honorable gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I thank the gentleman for the work he has done on this bill. It is a very good bill, very important to the security of our Nation.

Mr. Chairman, we are currently concerned about our economy. We are talking about the need for an economic stimulus. Increasing ethanol production from 2.7 billion gallons currently to over 5 billion in the next 12 years will do this.

Number one, it increases farm income by $51 billion; creates 214,000 new American jobs; reduces government farm payments by $5.9 billion, which will be a tax savings to our taxpayers of $5.9 billion; and reduces the trade deficit by $34 billion.

We currently import 60 percent of our oil, 500,000 barrels a day from Iraq, spend $100 billion a year on foreign oil; and this certainly remedies that problem. And, of course, it reduces air pollution. Ethanol use reduced carbon dioxide by 4.3 million tons in 2002. Finally, the current bill will reduce, not increase, the price of gasoline, which is excellent.

So this energy bill is critical. It provides assurance to those who would invest in renewable fuels that there is a long-term Federal commitment.

I thank the chairman for his work and urge passage of this legislation.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I thank the ranking member on the Committee on Energy and Commerce for yielding me time.

Mr. Chairman, I rise in support of H.R. 6. America needs movement on our energy policy. America needs more production of domestic oil and gas to keep our supply diverse, to keep prices moderate and to keep my State's largest employing industry from running out of gas, literally.

Some have said that it is balanced, some will say it is not; but I think this is a good piece of legislation. The bill deals with a great deal of efficiency in title I and production in title II, so I think it is a good compromise on policy of electricity.

Many Members have questions on this electricity policy; but the purpose is to apply equal treatment to all regions, with certainty for investors and consumers.

The bill also is a good compromise on ethanol and gasoline. The fuels provision is more gradual than last year's version and provides assistance to help manufacturers adjust to the new Federal mandate.

Mr. Chairman, this legislation also does a great deal for energy research, and I would like to thank my colleague, the gentleman from Beaumont, Texas (Mr. LAMPSON), for his work as ranking member on that subcommittee.

At the same time we do work on efficiency, conservation and production, we have to invest in new technology. That is a balanced energy policy.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this is a momentous debate. With 250,000 young men and women in Iraq fighting for all of us, we know that this Congress has a tremendous responsibility as we consider our national energy policy for the next decade to make decisions which will make it less likely that we are drawn into global conflicts in the future because of our dependence upon imported oil. That is why the provision which the gentleman from Michigan (Mr. DINGELL) and others asked to be put in order out here on the House floor, that is why the Waxman amendment, that is why the Dingell amendment, which deals with fraud in the electricity marketplace, that is why the Rahall amendment and so many of the other issues we were talking about, are so central.

The gentleman from Michigan (Mr. DINGELL) is raising the issue in the electricity marketplace of whether or not we are going to deal with the issue of fraud, of ensuring that we have an audit trail, which is going to make it possible for us to track activity which undermines the integrity of the marketplace; and that debate is a critical one here today.

In addition, we are going to debate whether or not we should be drilling in the pristine Arctic wilderness. Should we be going to the pristine wilderness of our country before we ensure that the motor vehicles in our country, the SUVs, the light trucks, the automobiles that are in our national fleet, are made more efficient.

Under the majority provision here today, we do not do anything about that. Instead, we turn to this pristine area in our country first. I believe that that is morally wrong, that we have a responsibility first to deal with the technologies that consume the energy in our society.

Mr. TAUZIN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, as we begin to debate the various titles of this bill, I think the American public will see that the work of the Committee on Ways and Means incentivizing energy production, incentivizing new fuels, incentivizing renewable fuels, combined with the work we have done in increasing programs like we do in this bill to make sure that clean coal technology is advanced, the STAR program on efficiency is advanced and other programs are advanced to increase conservation and efficiency in the country, as well as the programs that the Committee on Energy and Commerce will bring to us to make sure that we take full advantage of the resources of the lands that are producible in this country in an environmentally safe manner, when you look at all these provisions together, and the technology, science and technology provisions that the Committee on Science will bring, this is the most comprehensive energy package we have brought to the floor in many decades.

This deserves to be the law of the land for more than just one reason, more than just national security. This country is ready for an economic revival. This is the first step. Stable energy prices and stable supplies mean solid economic performance. This is our first step in revitalizing the American economy.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I thank my colleague for yielding me time.

Mr. Chairman, I rise in strong opposition to this legislation. The bill has many problems. For example, it rejects the sensible, bipartisan compromise on hydro dam relicensing offered by the gentleman from Michigan (Mr. DINGELL). Instead, the provisions in H.R. 6 would lead to a stunted review process that will weaken protection for wildlife and the environment.

The electricity deregulation provisions do nothing to address most of the problems we saw in California, such as returning California's money that was stolen by pricing-gouging energy companies. The electricity provisions weaken important consumer and investor protections, possibly bringing on more Enron-type shenanigans in the future.

The bill would also weaken States' abilities to protect their coasts and weigh in on proposals for liquid natural gas facilities.

I am very disappointed that I was not allowed to offer my amendment to strike this harmful provision which weakens the important Coastal Zone Management Act.

Finally, Mr. Chairman, I want to highlight problems in the motor fuels section. This part of H.R. 6 originally arose for two purposes: one, to get rid of gas additive and groundwater contaminant MTBE; and, second, to end an outdated clean air regulation on reformulated gas.

The clean air issue was solved by the bill, and that is good. But we still do not ban MTBE, and it is still contaminating our groundwater. Incredibly, the bill gives the industry immunity from the damage it knowingly caused to our water and $750 million in taxpayer-funded subsidies. The bill also has a huge and unnecessary ethanol mandate and liability protection for ethanol producers as well.

Achieving our original goal could have been done without all these industry goodies that will cost consumers millions. I am deeply disappointed that the amendment banning MTBE, offered by the gentleman from New York (Mr. ENGEL) and me, was not made in order, despite a very close vote on this issue in committee and an obvious need for action.

Mr. Chairman, we should ban MTBE to protect our Nation's drinking water and not let the industry off the hook. For these reasons and for so many others, this is a bad bill; and we should vote it down.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Texas (Mr. BARTON), the chairman of the Subcommittee on Energy and Air Quality of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Mr. Chairman, I thank the distinguished full committee chairman for yielding me time.

Mr. Chairman, I want to comment just briefly on the electricity title in the bill. We did not have an electricity title in last year's bill because we really did not have a consensus on the issue and we were hopeful that by moving it as a stand-alone bill, we might could get that consensus. Since that time, we have worked very hard with the very stakeholders, the investor-owned utilities, the municipalities, the co-ops to try to get consensus.

I will not say we have total consensus, but I think we have solved some of the most vexing issues. We have volunteer participation in what are called RTOs, regional transmission organizations; we have an excellent reliability title; we have some transparency rules to try to prevent what happened in California several years ago in the spot market for electricity; we have native load protection for the closed States that would rather not open their States to retail competition; we have some exemptions for the more open States that are voluntarily developing these RTOs. All in all it is a very balanced title; it is a very good title.

□ 1445

It would help the electricity industry regain market confidence and would help get more transmission lines built.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. DOYLE).

(Mr. DOYLE asked and was given permission to revise and extend his remarks.)

Mr. DOYLE. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, creating a national energy policy is a challenging but vital process. This country needs a comprehensive policy that reflects our diverse energy portfolio and this bill achives that on many fronts.

I am pleased that this bill makes some real strides toward increasing utilization of some alternative energy technologies also. Language I worked on to create an advanced building efficiency testbed is included which will allow a university consortium to develop innovations in building technologies that will improve the efficiency of the energy systems in residential and commercial buildings while also reducing pollution.

During committee consideration, I offered with LEE TERRY an amendment that will create an Advanced Power System Technology Incentive program. This will encourage further utilization of distributed power systems such as stationary fuel cells, turbines, and hybrid power systems. It will help reduce our dependence on foreign oil while also providing assured power to critical infrastructure facilities in a clean, environmentally friendly manner.

These are just a couple of the innovations included in the bill before us. Now I do have real concern with regard to language in the bill that would be detrimental to the pension plans of thousands of our mineworkers, and also with the fact that the tax provisions did not include important incentives for clean coal technology. My understanding is that these problems are being addressed and rectified however which is extremely important to me and thousands of others.

The bill also contains an electricity title which, while not perfect, will allow the restructuring of our electricity industry to continue. Critics try to make blanket assertions that the restructuring path doesn't benefit the consumer, or won't produce any savings. But in my home State of Pennsylvania, we have found quite the contrary.

Pennsylvania has been a pioneer in retail electric competition and it has worked well. In a recent report from Penn Future, a noted public interest group in my home State, they concluded ''electricity is generally becoming a bargain'', and they gave competition and restructuring much of the credit.

The chairman of our Public Utility Commission, Glen Thomas, said in a recent interview that since restructuring in Pennsylvania:

Consumers pay less for electricity.

New generating facilities are being built to meet growing demand.

The reliability of the grid has been strengthened.

And consumers have more options to buy environmentally friendly ''green'' power generated by renewable resources like hydroelectric and wind facilities.

We need to continue these advances and expand the benefits throughout the entire country. I believe that the bill before us today will help those efforts and I urge Members to support it.

Mr. DINGELL. Mr. Chairman, I have one more speaker and he is not here right at the moment.

Mr. TAUZIN. Mr. Chairman, I am happy to yield 1 minute to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, I would just like to compliment the gentleman from Louisiana (Mr. TAUZIN), the chairman of the full committee, and the gentleman from Texas (Mr. BARTON), the chairman of the subcommittee, for their hard work, including the staff. Hopefully, we can get it done this time. We have gone down this path once before; I think this is the sequel.

Mr. Chairman, our country, as the sole remaining superpower, needs a broad-based and balanced portfolio with regard to our energy resources. Imports of oil is a reality. Anybody can give a speech about how we are to lower the dependence. There are some things we also have to address.

We have to address exploration. We have to be able to utilize what we have in our own country with regard to natural gas and coal. Clean coal technologies will be extremely important, and I am hopeful that the House will be receptive to that discussion at the conference.

We also have to recognize that we have not even built a nuclear facility in our country in the last 20 years.

Let us also get back on the glidepath on conservation and renewable sources of energy, whether it be by solar or wind, soy, diesel, ethanol, et cetera.

So I want to compliment the chairman for his hard work. It will pay great dividends for the country.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the chairman for yielding me this time, and I thank the chairman, both chairmen, for doing a tremendous job on this energy bill.

In the last few years, we have seen repeatedly, I believe, the critical need for an efficiently working and comprehensive United States energy policy.

To most Americans, energy policy is viewed rather simply, Mr. Chairman. Americans see it at the gas pump when they fill up their car, or they see it at the mailbox when they receive their home heating oil and natural gas bills in the winter months. Now, while prices have softened a bit in the last few weeks, the last year has been filled with volatile spikes in both natural gas and crude oil.

Although enactment of this bill will likely have little effect on gasoline prices this summer, the bill will serve as a blueprint of change, an immensely positive change in policy for America going forward. Today, our responsibility now offers great opportunity.

A truly comprehensive national energy plan should include the utilization of all domestic resources that can be extracted in an environmentally sound fashion, a diversified and well-balanced portfolio of fuel sources for electric generation, including nuclear, clean coal, hydro, and natural gas; improvements to transmission capacity ensuring the reliability of our electric transmission grid; efficient energy incentives; conservation measures and targeted research dollars with an eye on the future.

Mr. Chairman, the chairman's bill achieves all of this. It strikes the necessary balance. I rise today in strong support. Not since early 1992, and until this administration, has the importance of U.S. energy policy been prioritized again, where it should have been.

Many, including me, were disappointed when the energy conference ran out of time last year, so I want to commend again the gentleman from Texas (Chairman BARTON) and the gentleman from Louisiana (Chairman TAUZIN), the House leadership, and this administration for their commitment to putting energy policy so quickly back on top of the Leaderboard.

Today, we can take another step forward to uniquely reposition ourselves as a country in terms of energy independence and getting back ahead of the curve.

Given true U.S. energy independence is paramount to our national security, I encourage all Members to support this sound, coherent, comprehensive policy for America.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished minority whip, my good friend, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank my friend for yielding me this time.

Mr. Chairman, this legislation is a comprehensive energy bill, but it is an incomplete energy policy. We need an energy policy that is balanced; balanced regionally; balanced in terms of promoting energy development and protecting the environment; balanced in terms of production and delivery, in terms of streamlining regulations, while protecting consumer interests; and certainly, Mr. Chairman, balanced in terms of addressing short-term problems while creating long-term stability, and investing for the energy needs of future generations.

Yet, there is no real commitment in this legislation, I think, to promote new alternative resources or conservation. We are missing a major opportunity to invest in the technologies of efficiency, to do more with less. To help us manage our consumption and create thousands of jobs at home.

Democrats have amendments to address these deficiencies, but most, unfortunately, if not all, will be rejected, even though they are good policies that many of my friends on the other side of the aisle would want to support, but will not because the majority has made many parts of this rule partisan.

I am especially concerned, Mr. Chairman, about the new issues in this debate, first, electricity restructuring. This bill ignores the lessons that should have been learned from Enron and from California. A poorly structured market is more susceptible to manipulation and fraud than a market that is properly designed. This legislation actually weakens the oversight and tools that our regulatory agencies need to provide the necessary checks and balances, therefore making matters worse.

I urge my colleagues to support the thoughtful and reasonable provisions in the Dingell substitute to address these deficiencies.

Secondly, the fuel provisions include mandates that ignore regional disparities in supply and distribution that will lead to increased prices at the pump for consumers on both the East and West Coasts.

Mr. Chairman, we need a comprehensive energy policy that is balanced, competitively neutral, and that maximizes our resources. This bill, unfortunately, misses that opportunity. Thus, I urge my colleagues to oppose it.

Mr. DINGELL. Mr. Chairman, before I yield my remaining 1 minute to the distinguished gentleman from Maryland (Mr. HOYER) to close, I gather my good friend, the gentleman from Louisiana (Mr. TAUZIN) has one speaker remaining, and that that speaker will be closing; is that right?

Mr. TAUZIN. Mr. Chairman, our Speaker will be closing on behalf of this side.

Mr. DINGELL. Mr. Chairman, I yield my remaining time to my good friend, the distinguished minority whip, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank my friend for yielding me the time to close.

I talked about, in the first 3 minutes, a comprehensive energy policy. I want to tell my friend, the chairman of the committee, I know he and the gentleman from Michigan (Mr. DINGELL) worked closely together on this bill. I think it is very unfortunate on a matter of such great importance to our country, to our national security, and to our people that we do not have a bill on the floor that both the gentleman from Louisiana and the gentleman from Michigan could have supported.

Some amendments have been made in order. I would hope that perhaps the gentleman from Louisiana would support some of those amendments. I think they will improve the bill.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, just quickly, I want the gentleman to know that we will be accepting 9 of the 15 amendments that will be offered and supported by Democrats on the bill.

Mr. HOYER. Mr. Chairman, I thank the gentleman.

Mr. DINGELL. Mr. Chairman, briefly reclaiming my time, they have very carefully strained these amendments in the Committee on Rules so that they are either inoffensive to my Republican colleagues, or they are ones on which the Republican colleagues would lose. My Republican colleagues have also denied us the right to offer the amendments which we would most assuredly have won on.

There is very great finesse in the Committee on Rules.

Mr. Chairman, I again yield the remaining time to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, in closing, let me say honestly that I think this issue is of such magnitude that we really ought to work together. We have missed an opportunity to do that. I hope in the future we will be able to do so.

I think the gentleman's experience, matched with the experience of the gentleman from Louisiana (Mr. TAUZIN) and the Members on both sides of the aisle can come up with an energy policy of which we can all be proud. I feel we have not done that this day, and I think we have lost an opportunity.

Mr. TAUZIN. Mr. Chairman, let me take a second to say that, coming from the master himself, I take the words of the gentleman from Michigan (Mr. DINGELL) as a compliment, but mainly to compliment him for the civility and the cooperation that he was provided as our committee has worked through these difficult issues.

Mr. Chairman, I yield the balance of my time to close to the gentleman from Florida (Mr. STEARNS).

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Chairman, we are going to hear perhaps from the people on this side that we could have done more. Let me just say to my colleagues, the gentleman from Texas (Mr. BARTON), who is chairman of the Subcommittee on Energy and Air Quality, had 35 hearings on this bill. We had an energy conference in the 107th Congress in which we tried for so many hours, so many days, to try and bring this bill together. We could not in the 107th.

Here we are in the 108th, and now, nearly after 2 full days of markup by the gentleman from Louisiana (Mr. TAUZIN), the distinguished chairman of the full committee, we went almost all night for 2 days we passed this bill. There is nobody in this Congress who is more bipartisan and willing to work the extra mile to get results. In fact, I call the gentleman from Louisiana (Mr. TAUZIN) the Energizer Bunny. On this bill he has gone way over the top, he and the gentleman from Texas (Mr. BARTON), to accommodate and to help Members bring their ideas into this bill, and they have been willing to also when necessary compromise.

So there is no reason to think, as we come to mark up this bill on the floor, that we do not have the best product possible in this Congress. I think this product is good, and that is why I think it represents a balance of sensible production initiatives with conservation. It provides incentives for renewable energy production, clean coal technology, low-income energy assistance, and provides for certainty and reliable operation of our energy markets and increased domestic production.

So I urge support for the bill.

Mr. Chairman. I rise in support of H.R. 6, the Energy Policy Act of 2003. We have worked to develop legislation that balances sensible production initiatives with conservation. This bill provides incentives for renewable energy production, clean coal technology, low-income energy assistance, provides for certainty and reliable operation of our energy markets, and increased domestic production.

Regarding electricity, I am pleased that this bill addresses a number of arcane federal laws and mandates that have no place in the electricity markets today. The compromise we have regarding the prospective repeal of the mandatory purchase obligation under PURPA is the best approach to allow for legitimate Combined Heat and Power development, while allowing relief for electric utilities from a federal mandate that has not served its intended purpose and has resulted in billions in excess costs to consumers.

The bill also increases penalties for sabotage or attempted sabotage of nuclear facilities. And authorizes a hydrogen fuel cell program with a goal of launching hydrogen fuel cell cars into the market by Model year 2020.

H.R. 6 will have far reaching implications from the industry to the family room. It will allow our country to continue its path of prosperity and leadership. I urge my colleagues to support this legislation.

The CHAIRMAN. The Chair will now recognize the gentlewoman from Illinois (Mrs. BIGGERT) and the gentleman from Texas (Mr. HALL), who each will control 10 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Chairman, as the chairman of the Subcommittee on Energy of the House Committee on Science, I rise today in strong support of H.R. 6, the Energy Policy Act of 2003 and, in particular, those provisions that originated in the Committee on Science.

I want to start by commending the chairman of the Committee on Science, my friend and colleague, the gentleman from New York (Mr. BOEHLERT); the ranking member of the full committee, the gentleman from Texas (Mr. HALL); and the ranking member of the Subcommittee on Energy, the gentleman from Texas (Mr. LAMPSON), as well as the members of the Committee on Science from both sides of the aisle for all of their hard work on this bill.

I would also like to thank the chairman of the Committee on Energy and Commerce, the gentleman from Louisiana (Mr. TAUZIN) for his efforts to resolve a number of overlapping jurisdictional issues in a way that confirms our two committees' responsibilities and advances important energy issues in the bill.

The resolution of these issues is reflected in an exchange of letters between the gentleman from New York (Chairman BOEHLERT) and the gentleman from Louisiana (Chairman TAUZIN), and I ask that these letters be inserted in the RECORD at this time.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
*Washington, DC, April 7, 2003.*

Hon. WILLIAM J. TAUZIN,
*Committee on Energy and Commerce, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: This letter is intended to put in writing the understandings about jurisdiction that informed our negotiations over the structure and content of H.R. 6, the Energy Policy Act of 2003.

It was agreed that the structure of H.R. 6 has no bearing on future decisions on jurisdiction and that neither our Committee nor yours waived any jurisdictional claim as part of the drafting of H.R. 6. No agreements concerning either the language of H.R. 6 or the placement of any language should be construed as a waiver of either Committee's jurisdictional claims under Rule X or the precedents of the House.

Moreover, our two Committees agreed that both Committees have jurisdiction over the Division of H.R. 6 pertaining to the Hydrogen Initiative and FreedomCAR.

I look forward to continuing to work with you as H.R. 6 moves through the legislative process.

Sincerely,

SHERWOOD L. BOEHLERT,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
*Washington, DC, April 9, 2003.*

Hon. SHERWOOD L. BOEHLERT,
*Chairman, Committee on Science, House of Representatives, Washington, DC.*

DEAR CHAIRMAN BOEHLERT: Thank you for your letter regarding the discussions our Committees held to draft H.R. 6.

I agree that no agreements concerning either the language of H.R. 6 or the placement of any language should be construed as a waiver of either Committee's jurisdictional claims under Rule X or the precedents of the House.

Moreover, our two Committees agreed that both Committees have jurisdiction over the Division of H.R. 6 pertaining to the Hydrogen Initiative and FreedomCAR.

Sincerely,

W.J. ''BILLY'' TAUZIN,
*Chairman.*

□ 1500

Finally, let me express my appreciation for the extremely professional staff from all relevant committees, as well as key leadership staff, and some who have worked diligently on this bill for months and in some cases years to get us to this point. I know that many of them worked through the weekend to recraft major portions of this bill, which only made it better.

Mr. Chairman, a national energy policy is urgently needed. Over the past 30 years, our national energy demand has increased 47 percent, and yet we now have half as many oil refineries, static pipeline capacity, and 12 different blends of gasoline in just my home State of Illinois alone.

We have not built a large refinery in about 20 years, and our current refineries are operating at 95 percent capacity. Almost 60 percent of the oil consumed in America has to be imported because we are home to only 2 percent of the world's supply. Unless we begin to address some of these fundamental problems, we are going to experience high and volatile energy prices every year, well into perpetuity.

America now has the motivation, perhaps like no other time since the oil crisis of the seventies, to find newer and better ways to meet our energy needs. Renewed violence in the Mideast, the wars against terrorism and in Iraq will continue to cause more volatility in energy prices and supplies. It does not take a chemical engineer or a foreign policy expert to understand what that portends: continued dependency on increasingly uncertain sources.

At the same time, I do not believe that affordable energy and a clean and safe environment are mutually exclusive. America has the ingenuity and expertise to meet our future energy demands and promote energy conservation; and we can do it in environmentally responsible ways and set a standard for the world.

President Bush 2 years ago emphasized the use of advanced technology to expand and diversify our energy supply while reducing our energy demand. But advanced technologies do not grow on trees; they grow out of scientific research, like that supported by the Department of Energy at our universities and national laboratories. This is exactly the kind of research and development that was authorized in the energy R&D bill approved by the Committee on Science last week and incorporated into the bill before us today.

As was the case in the last Congress, the Committee on Science's energy provisions are bipartisan, comprehensive, forward-thinking, and balanced. They represent numerous bipartisan agreements developed through lengthy negotiations between House and Senate conferees on the R&D title of H.R. 4 in the last Congress.

But the world of energy research does not stand still between the last Congress and now. There have been important developments since last November, which we addressed in several amendments, all of which were unanimously approved in our markup last week.

First, to further the goal of developing energy from nuclear fusion, a potentially limitless source of safe and clean energy, this bill authorizes U.S. participation in the development and construction of ITER, the international fusion experiment.

Second, I am particularly pleased to note that H.R. 6 includes higher authorization levels that I originally proposed in H.R. 34 for important basic research programs at the DOE's Office of Science, which is the Nation's primary supporter of research in the physical sciences, mathematics, and computing.

Last, the bill of the Committee on Science, and division F of the bill before us, authorizes the Hydrogen Initiative announced by President Bush in this year's State of the Union Address. The vision of a hydrogen economy holds great promise for reducing our dependence on foreign oil while reducing air pollution, and we are pleased to support the President by authorizing this important initiative.

Mr. Chairman, this is a fair and balanced bill. It takes a step in the right direction towards our goal of developing cleaner, more efficient, and abundant sources of domestic energy to enhance our country's economic energy and national security. I urge strong support for its passage.

Mr. Chairman, as the Chairman of the Energy Subcommittee of the House Science Committee, I rise today in strong support of H.R. 6, the Energy Policy Act of 2003, and in particular those provisions that originated in the Science Committee.

I want to start by commending the Chairman of the Science Committee, my friend and colleague Mr. BOEHLERT, the Ranking Member of the Full Committee, Mr. HALL, and the Ranking Member of the Energy Subcommittee, Mr. LAMPSON, as well as Members of the Science Committee from both sides of the aisle for all their hard work on this bill. Just last week, the Science Committee approved H.R. 238, ''The Energy Research, Development, Demonstration and Commercial Application Act of 2003,'' the vast majority of which is contained in the bill we are considering today. This is a testament to the important role science and technology will play in addressing our current and but also our future energy challenges.

I also would like to thank the Chairman of the Energy and Commerce Committee, Mr. TAUZIN, for his efforts to resolve a number of overlapping jurisdictional issues in a way that protects our two committees' programs and responsibilities and advances important energy issues in the bill. The resolution of these issues is reflected in an exchange of letters between Chairman BOEHLERT and Chairman TAUZIN, and I ask that these letters be inserted in the record at this time.

Finally, let me express my appreciation for the extremely professional staffs of all the relevant committees, as well as key leadership staff, who have worked diligently on this bill for months—and in some cases, years—to get us to this point. I know that many of them worked through the weekend to re-craft those portions of the bill where that involved committee differences and jurisdictional issues. In particular, I would like to thank the staff of the Energy Subcommittee of the Science Committee, including Gabe Rozsa, Eli Hopson, Tina Kaarsberg, and Kevin Carroll on the majority side, and Charlie Cooke on the minority side, for all their hard work. Also deserving recognition for their tireless efforts are the full committee staff of the Science Committee, including David Goldston, John Mimikakis and Mike Bloomquist on the majority side, and Bob Palmer, Christopher King and Jim Turner on the minority side. The many contributions of those I've just mentioned have resulted in a better bill, and one that I would urge my colleagues to support.

Mr. Chairman, a national energy policy is urgently needed. Over the past 30 years, our energy demand has increased 47 percent, and yet we now have half as many oil refineries, static pipeline capacity, and 12 different blends of gasoline in just my home state of Illinois alone. We haven't built a large refinery in about 20 years and our current refineries are operating at 95 percent capacity. Almost 60 percent of the oil consumed in America has to be imported because we are home to only 2 percent of the world's supply. Ninety-seven percent of the power plants currently under construction use the same non-renewable fuel—natural gas. Unless we begin to address some of these fundamental problems, we're going to experience high and volatile energy prices every year—well into perpetuity.

America now has the motivation—perhaps like no other time since the oil crisis of the '70's—to find newer and better ways to meet our energy needs. Renewed violence in the Middle East, the wars against terrorism and in Iraq will continue to cause more volatility in energy prices and supplies. It doesn't take a chemical engineer or a foreign policy expert to understand what that portends—continued dependence on increasingly uncertain sources.

At the same time, I do not believe that affordable energy and a clean and safe environment are mutually exclusive. America has the ingenuity and the expertise to meet our future energy demands and promote energy conservation, and we can do so in environmentally responsible ways that set a standard for the world. What I like most about the National Energy Policy proposed originally by President Bush two years ago is that it emphasizes the use of advanced technology to expand and diversify our energy supply while reducing our energy demand. But advanced technologies don't grow on trees. They grow out of scientific research like that supported by the Department of Energy at our universities and national laboratories.

This is exactly the kind of research and development that was authorized in the energy R&D bill approved by the Science Committee last week and incorporated into the bill before us today. As was the case in the last Congress, the Science Committee's energy provisions are bipartisan, comprehensive, forward-thinking and balanced. Our Committee started from a bill that was introduced by Chairman BOEHLERT and Ranking Member HALL during the first week of this Congress. The language in the bill was the text of bipartisan agreements developed through lengthy negotiations between House and Senate conferees on the research and development title of H.R. 4 in the last Congress.

A lot of work went into that text.

It, too, was fair and balanced, promoting R&D related to energy efficiency and renewable energy, nuclear energy and fossil fuels, as well as basis research in the DOE Office of Science. It included major initiatives, such as the new ultra-deep drilling program and the Clean Coal Program, which involved a compromise to ensure that DOE's R&D and technology programs actually increased energy production, improved energy efficiency, and led to a cleaner environment. I'm pleased to report that last year's agreements were the foundation of what we developed this year.

But the world of energy research did not stand still between last Congress and now. There have been important developments since last November, which we addressed in several amendments, all of which were unanimously approved at our mark up last week.

First, to further the goal of developing energy from nuclear fusion, a potentially limitless source of safe and clean energy, this bill authorizes U.S. participation in the development and construction of ITER, the international fusion experiment. This authorization contains strict limitations that minimize the financial exposure of the U.S., while allowing Congress to revisit the issue again before construction begins. It also makes clear that Congress does not intend for U.S. participation in ITER to reduce or diminish funding for our domestic fusion program at the DOE, which continues to support cutting edge fusion research. This is especially important, for as the New York Times reported on April 8, 2003, scientists at DOE's Sandia National Laboratory have now managed to achieve a controlled fusion reaction. These are the kinds of advances in energy research that a truly comprehensive energy bill should continue to support and preserve.

Second, I am particularly pleased to note that H.R. 6 includes higher authorization levels that I originally proposed in H.R. 34 for important basic research programs at the DOE's Office of Science, which is the nation's primary supporter of research in the physical sciences, mathematics, and computing. In the past, funding for research in the physical sciences remains stagnant, with the budget for the DOE Office of Science at its 1990 level in constant dollars.

In a report released at the end of August last year, the President's Council of Advisors on Science and Technology, or P–CAST, recommended that R&D for the physical sciences should be brought to parity with the life sciences over the next five budget cycles. What was P–CAST's rationale? Just a little over thirty years ago, support for the three major areas of research—physical and environmental sciences, life sciences, and engineering—was equally balanced. Today, the life sciences receive 48 percent of federal R&D funding compared to the physical sciences' 11 percent and engineering's 15 percent. This trend does not bode well for either the physical sciences or the life sciences. As the P–CAST report points out, ''It is widely understood and acknowledged that the interdependencies of the various disciplines require that all advance together.'' To further articulate the case for this much-needed funding, I would like to introduce into the RECORD the Executive Summary of a January 2003 report by the American Physical Society entitled ''Department of Energy Office of Science: The Case for Budget Increases.''

Third, the bill approved by the Science Committee, and Division F in the bill before us now, authorizes the Hydrogen Initiative announced by President Bush in his State of the Union Address this year. The vision of a hydrogen economy, which relies on energy from hydrogen fuel cells in our homes, businesses, and cars, holds great promise for reducing our dependence on foreign oil and reducing air pollution. The Science Committee has a long history of supporting hydrogen research and development, and we are pleased to support the President by authorizing this important initiative. More specifically, the Science Committee's provisions: flesh out areas of R&D that the Initiative must cover; require the Department to undertake more extensive planning; and ensure that demonstration projects actually facilitate the transition to a hydrogen economy.

Finally, let me also mention the role of the Science Committee in the development of the Clean Coal provisions in Division E of H.R. 6. Again, the provisions in H.R. 6 are based on language originally developed by the Science Committee in the 107th Congress, included in H.R. 4, and agreed to in the conference on that bill. On a bipartisan basis, the Science Committee agreed to further refine this language at the urging of my colleague from Illinois, Mr. COSTELLO. The language in the Science Committee's reported bill represented a balanced program to promote new coal technology that will improve efficiency and reduce emissions from our most abundant domestic source of energy. While further changes were made during negotiations with the Energy and Commerce Committee, it was with the understanding that the two committees would allow no further concessions to weaken the protections that ensure that funds are used to advance clean coal technology in an environmentally and fiscally responsible way.

Mr. Chairman, this is a fair and balanced bill. It takes a step in the right direction towards our goal of developing cleaner, more efficient and abundant sources of domestic energy to enhance our country's economic, energy, and national security. I urge strong support for its passage.

AMERICAN PHYSICAL SOCIETY—SECURING THE FUTURE FOR THE DEPARTMENT OF ENERGY'S OFFICE OF SCIENCE—THE CASE FOR BUDGET INCREASES

I. EXECUTIVE SUMMARY

OVERVIEW

A significant budget increase for the Department of Energy's Office of Science (SC) is critically important for meeting the nation's scientific and technological needs in the 21st century. National security and economic growth depend on a well-trained workforce and a vibrant scientific base. For the DOE to capitalize on the extraordinary scientific opportunities already identified by leaders in the research community, funding for the Office of State would have to increase more than two-fold. Since the DOE SC is the principal federal custodian of the physical sciences, the American Physical Society feels compelled to be one of the prime advocates for its budgetary growth.

The DOE Office of Science is by far the nation's largest support of research in the physical sciences, and it plays a dominant role in underwriting activities in mathematics and computing. It has made extraordinary contributions over many years to the nation's science and technology enterprise and the benefits we derive from it. As a result of this work, we are entering the 21st century with a new and deeper understanding of how matter and energy shape the universe—new knowledge that allows us to improve life here on earth. The SC was one of the developers of the Internet, began the computational analysis of global climate change, initiated the sequencing of human and other genomes, promoted early advances in nanotechnology and protein crystallography. The SC's unique capabilities remain central to both basic and applied research, in fields as diverse as developing designer drugs, accelerating computing speeds, and generating sophisticated diagnostics for national security, medical and industrial purposes.

We have entered an era in which advancement in any scientific discipline depends on an understanding of nature in many disciplines, especially at the very small scale. Furthering interdisciplinary activities and probing matter at the smallest scale are fundamental strengths of the SC research programs carried out in unversities and national laboratories. Uniquely among civilian agencies, DOE's Office of Science is responsible for operating big facilities capable of tackling large-scale, complex, multi-disciplinary problems, such as nanotechnology and genomics. The SC program provides extraordinary value of its own, but it is also vital for exploiting the investments made in other fields.

Policy makers of virtually all stripes agree that the federal government must play a central role in guaranteeing that the United States maintain its position as the world's leader in science and technology. Unfortunately, that position is currently at risk. In teraflop computing, for example, the Japanese new supercomputer ''Earth Simulator'' threatens American dominance at the cutting edge of computer technology and large-scale scientific simulations. The federal investment in research is also an investment in the next generation of scientists. Especially in the physical sciences and engineering, our technically trained workforce is aging and our nation is becoming ever more reliant on the pipeline of foreign researchers. At a time when our nation is so focused on homeland security, this trend is very troublesome.

BUDGET IMPLICATIONS

For more than a decade, budgets for the DOE Office of Science have stagnated or declined. To reinvigorate these programs and assure American scientific leadership, significant increases in spending are required. The budget increase required for the following three priorities of the Office of Science will entail a 13 percent increase over FY02 spending:

University Research and Grant Acceptance Levels

Research conducted by university professors is vital to the success of the DOE SC program and the training of a national work force skilled in a wide parity of physical science disciplines, including computing and engineering. Approximately one quarter of the SC budget (projected to be $765 million in FY 2003) supports competitive, peer-reviewed grants to about 2000 individual investigators at more than 250 universities and institutions nationwide. In addition, university and industrial scientists constitute a significant share of the user community at the DOE's major facilities.

The decline is physical science and engineering degrees for US citizens is well-documented and a cause for concern, even alarm, given the requirements of our economy and the shortage of technical personnel to fulfill them. Although SC is the prime supporter of the physical sciences and is responsible for a major share of university research, SC is able to fund only 10 percent of the grant applications it receives. Even in a priority area such as nonosciences, SC has funds to grant only 13.5 percent of submitted applications. By comparison, NSF was able to fund 31 percent of grants submitted in 2001 by a similar applicant pool, and NSF projects a 32 percent acceptance rate in FY02 and FY03. Since the DOE Office of Science is the primary source of research funds for the physical sciences at universities, improving SC's funding rate to at least 33 percent in all areas would significantly impact scientific program in the physical sciences. This increase in grant approval rates would bring the total cost of the university grant program to $2524 million.

Facilities and Infrastructure Improvement

The nation has benefited enormously from investment in DOE SC facilities over the years. DOE SC is solely responsible for the facilities at National Labs; although users from many scientific disciplines use DOE SC machines, DOE designs, develops and operates them. Roughly half of the DOE SC budget is devoted to user facilities. The more than 17,000 scientists and 3,000 graduate students who use these facilities each year are employed by universities, federal science agencies and private industry. Often DOE labs host major collaborations to address complex problems of national importance.

Maintenance backlogs, facilities underutilization, and delayed or dropped upgrades jeopardize the facilities programs in the Office of Science. Currently the DOE SC is able to only put $37 million per year towards the backlog of facilities infrastructure needs. A report released in April of 2001 by the Office of Science determined that an infusion of $932 million was needed to address these problems, including $460 million to upgrade buildings, $308 million to replace outdated buildings, $92 million for utility projects, and $72 million for environmental safety and health. Spread out over a five-year span, DOE SC would need to spend at least $186 million per year just to take care of the existing queue; as facilities age with time, this backlog will continue to grow. A yearly investment of $100–150 million per year beyond FY07 will be needed to maintain and upgrade the facilities. At least another $50 million per year is necessary to run the DOE SC's facilities full-time at capacity.

Initiatives

The Office of Science has identified a set of key initiatives that take advantage of emerging research opportunities across the six program areas within DOE SC. They are exemplified by a series of Occasional Papers issued by that office: The Challenge and Promise of Scientific Computing; The Beauty of Nanoscale Science, Using Nature's Own Toolkit to Clean Up the Environment; Dark Energy—The Mystery that Dominates the Universe; Bringing a Star to Earth; and Biotechnology for Energy Security. The program papers that constitute Part III of this document contain detailed descriptions and cost estimates for the opportunities in support of those key initiatives; the total increase over FY02 is 76 percent. Short summaries of each of the six papers follow.

SUMMARY OF PROGRAM PAPERS

Advanced Scientific Computing Research (ASCR)

Advanced computing technology are needed to answer otherwise intractable scientific questions. The Office of Advanced Scientific Computing Research (OASCR) supports fundamental research in mathematics, computer science and networking. OASCR promotes programs that build a tight coupling between Advanced Scientific Computing Research and basic scientific research in other Office of Science programs. The top priorities for OASCR over the next five to ten years include (1) high-performance architectures, networking, and software with an emphasis on scientific application rather than pure computer speed; (2) new mathematics and new algorithms for new problems, especially in the treatment of multiple scales; and (3) improvements in facilities and networking.

Biological and Environmental Research (BER)

The BER program seeks innovative solutions to key scientific challenges by supporting research across the life, environmental, and medical sciences. BER invests in developing faster, cheaper and more accurate DNA sequencing technology and advanced climate models; conducts fundamental research on energy-related chemicals and particulate matter emitted to the atmosphere; and supports world-class competitive user facilities for structural biologists. BER also supports fundamental research into methods to clean up radioactive contamination on DOE sites, especially where traditional clean up strategies may be ineffective or too costly. The medical applications division of BER coordinates its research with basic and clinical research at the National Institutes of Health. The top priorities for BER include (1) Genomes to Life, an initiative to investigate and understand complex biological systems; (2) climate change research; (3) field implementations of bio-remediation solutions; and (4) high-risk, upstream research in advanced medical imaging.

Basic Energy Sciences (BES)

The Basic Energy Sciences (BES) program supports basic research in materials science and engineering, chemistry, geosciences and energy biosciences. This research will ultimately lead to the development of materials that improve the efficiency, economy, environmental acceptability and safety for a wide variety of applications. The top priorities for BES include: (1) completion of the Spallation Neutron Source, a next-generation neutron scattering facility currently under construction, and neutron scattering research; (2) nanoscale science and science research centers; and (3) development of the next-generation synchrotron radiation light source.

Fusion Energy Sciences (FES)

The Office of Fusion Energy Sciences supports research on advanced plasma science, fusion science, and fusion technology with the ultimate objective of achieving a safe, economic power source, free of greenhouse gases, using widely available fuels, and with no long-lasting hazardous by-products. Advances in understanding the basic physical processes of plasmas (ionized gases) will yield better methods for sustaining, heating, and controlling plasmas in regimes relevant to fusion power generation. Crucial to the eventual utility of fusion as a power source is the burning plasma experiments in which the fusion process itself is the dominant source of heat. Priorities for FES include: (1) a burning plasma facility such as the International Thermonuclear Experimental Reactor; (2) developing an integrated modeling capability for toroidal confinement systems that incorporates recent theory, experimental results, and advanced computation techniques; and (3) enhanced materials modeling augmented by a major initiative in innovative materials development. In addition, FES' smaller facilities, located mostly at universities, need additional capability to carry out their science programs. This initiative includes funding for competitively selected Frontier Fusion Science Centers.

High-Energy Physics (HEP)

HEP supports research into the fundamental structure of matter, energy, space and time. Experiments and theoretical insights over the past several decades have led to a detailed understanding of the most basic particles and forces, and how they govern the evolution of the universe. Technologies developed for HEP research have led to significant applications in such areas as global communications, computer and materials science, molecular biology, medical diagnostics, and national security. Priority areas for current and future research in HEP include: (1) exploring new regions of energy where the forces of nature become unified and new physics must emerge; (2) elucidating the properties of neutrinos, including just discovered fact that neutrionos change from one type to another, (3) understanding the subtle differences between the behavior of matter and anti-matter; and (4) learning about the nature of dark matter and dark energy, through experiments on earth and in space.

Nuclear Physics (NP)

NP scientists probe the properties of nuclei and nuclear matter and of their ultimate constituents—quarks and gluons—as well as investigating key interdisciplinary questions, including the basis of fundamental symmetries in nature, how matter emerged in the first moments of the universe, the nature of supernovae, and the origin of elements in the cosmos. NP supports research into the structure of nucleons and nucleonic matter, the properties of hot nuclear matter, and the fundamentals of nuclear microphysics. More than half of nuclear-science Ph.D.'s apply their training outside their field, most notably in medicine, industry, and national defense. Current priorities for the Nuclear Physics Program include: (1) Continuous Electron Beam Accelerator Facility at the Jefferson National Accelerator Facility and (2) the Relativistic Heavy-Ion Collider at Brookhaven National Laboratory. In order to understand how nuclei are constructed from their constituent parts, the nuclear science community has proposed the Rare Isotope Accelerator project, a new concept in exotic-beam facilities.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to support this legislation. It is the product of a lot of months of work, not only this year, but also in the last Congress we worked hard and worked on into the conference committee. We were able to preserve a lot of the language that was agreed to last year, but never formally adopted by the conferees. I was disappointed in that.

The members of the Committee on Science have worked well together on both sides of the docket to produce provisions that make the Federal Government an enabling partner in energy research and development to enable us to develop the technologies necessary to conserve energy and use it more efficiently. Provisions in this bill also jumpstart the transition to a hydrogen economy and take the next step of exploring the possibility of fusion energy.

These, of course, are all high-risk, high-payoff, and long-lead time, and in my view an appropriate role for the Federal Government to play in energy.

However, in order to survive to the long term, we have to ensure that supplies of domestic oil and natural gas continue to flow. The transition from an oil and gas economy to one based on fusion and renewable energy will be extremely long. The fact is that it is easy to find and produce oil and gas. That amount has already been consumed. The challenge is getting it, I think, at the more difficult producing horizons. This legislation, I think, does that.

I have always said that the energy policy we need is an incentive to look for it and a reward for finding it. This program actually comes as close to that as any I have seen in the 20 years I have been here.

I am pleased that the Committee on Science has included my ultradeep and unconventional onshore exploration and production R&D provisions in division B. Mr. Chairman, in reality this is actually an important production provision masquerading as an R&D provision.

The estimated volumes of natural gas that can be produced from the middle and western Gulf of Mexico are truly astonishing, 69 trillion cubic feet by one estimate.

Under these provisions, an industry-led consortium will lead a crash program to develop the technologies necessary to drill and produce these hydrocarbons at extreme depths. A companion program will develop the technologies necessary to drill and produce the hard-to-reach oil and gas on shore. I think a crash R&D program will go a long way to meeting the increased demands for natural gas that are expected to occur in the next 15 years.

Mr. Chairman, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CALVERT), a distinguished member of the Committee on Science.

Mr. CALVERT. Mr. Chairman, I rise in support of sound energy for American citizens.

First, I would like to thank the Members and staff of the four committees, the Committee on Energy and the Committee on Science, the Committee on Resources, and the Committee on Ways and Means, who have all worked so hard to bring this bill to the floor.

There are a few points that I would like to address that I believe are crucial for the future stability of energy in America.

First, I commend the inclusion of the hydrogen provision in H.R. 6, which is consistent with the President's call for alternative fuel sources in the future. We must actively pursue increased efficiency of fuel, reduced energy consumption, and additional research into alternative fuels such as hydrogen. The future of our economy and prosperity will ultimately depend on our ability to discover new ways to provide energy for our cars, homes, and businesses.

Another important aspect of energy policy is the reform of nuclear and worker safety regulation at the Department of Energy. The Department of Energy is the only Federal agency that self-regulates; and after 10 years of studies, it is time that we implement external regulation of non-military labs, for the welfare of the workers and to the benefit of taxpayers.

While not included in this legislation, I am hopeful that we can pass other legislation to enact this reform and bring much-needed external regulation of worker safety and health to the Department of Energy.

I am also hopeful that as we confer with the other body we will broadly include innovations in the field of biosynthetic fuel. Again, I commend the efforts of the various committees which have brought this bill about and look forward to moving more options in the arena of energy policy for the benefit of the American public.

Mr. HALL. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, I thank the gentleman for yielding time to me. It has been great working with the gentleman from Texas (Mr. HALL) on the Committee on Science. I want to commend the gentlewoman from Illinois (Mrs. BIGGERT) for the work she has done as chairman of the Subcommittee on Research, but also the gentleman from New York (Mr. BOEHLERT) on the full committee.

Mr. Chairman, I rise today in support of H.R. 6, the comprehensive energy bill, particularly the research and development title that is the product of the bipartisan efforts of this Committee on Science.

With a major portion of our current oil supply coming from overseas, it is essential that we make significant national investments in Department of Energy research and development programs to give us greater control over our future national energy supply.

I come from an area that is a significant producer, as well as a processor, of oil. There is no question but that we need to try our best to put more of the people who are out of work in that field, particularly in southeast Texas, in my district, back to work.

But our efforts must be focused not just on fossil fuels, but across a broad spectrum of energy sources, including wind, solar, nuclear, hydroelectric, and others. Conservation energy-efficiency programs are also essential. H.R. 6 provides us with a balanced approach to address our future energy needs.

The bill also includes two important amendments that I offered in the Committee on Science. The first would require the Department of Energy to complete a report that would lay out the design and cost of establishing a test center for the next-generation fuel cells.

My second amendment requires the DOE to report back on efforts to increase collaboration between large and small institutions of higher education. Smaller minority-serving universities have so much to offer the Department of Energy through grants, contracts, and cooperative agreements. I believe DOE can do more to foster this type of collaboration.

I support H.R. 6, and I encourage my colleagues to support this very important legislation.

Mrs. BIGGERT. Mr. Chairman, I yield 1½ minutes to the gentleman from Oklahoma (Mr. SULLIVAN), a member of the Committee on Science.

Mr. SULLIVAN. Mr. Chairman, I rise in support of the comprehensive energy legislation before us today.

While the bill has many excellent provisions, I want to focus on just a few that I believe are particularly important.

Increasingly, our country is relying on natural gas to heat our homes, fuel industry, and to generate electricity. The good news is our country is blessed with vast reserves of natural gas, and additional reserves are nearby in Canada. Unfortunately, many of our existing producing reservoirs are declining. This means we must allow access to new reserves and encourage the building of the infrastructure necessary to get these reserves to market.

I am pleased that the bill contains several important provisions designed to do just that. For example, the bill directs the Secretary of Energy to undertake a program to demonstrate technologies for improving production techniques, particularly from unconventional natural gas reservoirs, such as tight sand formations and coal bed methane.

The bill also includes a number of tax provisions to encourage production and infrastructure development. For example, the bill extends the section 29 tax incentives so important to the development of unconventional gas reserves. It also provides royalty relief to encourage production in deeper offshore waters. It also sets a 7-year depreciation life for gathering lines and a 15-year life for distribution lines.

The bill also calls for improvements in the leasing process of the Department of the Interior. Much of the reserves remaining in the continental United States are located on Federal lands. These reserves can be developed in an environmentally sensitive manner, but we must break through the bureaucracy and other barriers that delay or block making these lands available.

In summary, Mr. Chairman, I applaud the work of the many committees involved in putting this package together. Enactment of comprehensive energy legislation will address a critical sector of our economy and our country's security. I appreciate the leadership of

Chairman TAUZIN, Mr. POMBO, Mr. THOMAS, Mr. BOEHLERT, and others involved in putting this bill together and I hope that we can reach our goal of signing a comprehensive energy bill into law.

Mr. HALL. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Chairman, I thank the gentleman from Texas (Mr. HALL) for yielding me the time.

I am in opposition to this bill because today I believe we are preparing to pass the oil industry's dream plan. It was drawn up in the secrecy of the vice president of the oil dynasty's office, Mr. CHENEY. He has fought every attempt to tell us who was even in the meeting, much less what they talked about.

The bill was brought up to the Congress and the Committee on Ways and Means, and we could not get any amendments adopted, nothing. It has been put out by the White House, and that is good enough for the boys up in the Committee on Ways and Means.

Now, Rumsfeld and Bechtel were involved in this whole business with Iraq back in 1983. In December of 1983, Mr. Rumsfeld was there negotiating for a $2 billion pipeline from the southern Iraq fields to Aqaba, the Gulf of Aqaba, across Jordan.

Saddam negotiated with them a while, and then he said no. Ever since then, there has been all this interest in why can we not go in and have a regime change, because he would not roll over for what was going on.

Now, this is at the time, when Rumsfeld was negotiating with Saddam Hussein is exactly the time when he was bombing the Iranians with chemical weapons. We are over there making an oil deal, and this guy is doing this stuff out there. People act like we have such clean hands in this. This administration is going to get out of here with a bunch of money for oil.

I offered an amendment in the Committee on Ways and Means to put money up for buying solar panels. They did it in San Francisco; they passed a bond issue to put solar panels on every building in San Francisco. They are doing it all over California. Eight times the amount of energy they need in California falls out of the sky every day.

For this bill the chairman of the Committee on Ways and Means would not even consider that amendment. This is an oil company bill. It is oil, oil, oil. It has a greasy feeling to it.

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Mrs. BIGGERT. Mr. Chairman, I yield 1½ minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentlewoman for yielding me time.

This is not the perfect bill. There are very few bills that come before the House that are perfect. I think there is a recognition that within a 20-year time frame the administration would like to relieve ourselves of the burden of fossil fuels, become independent of foreign sources of energy, and protect and improve the environment by burning hydrogen, fusion and other alternative sources.

There are a number of things in this bill that we can work on and improve, and this is not our only shot at it. Our shot at the energy resources of this country and energy policy comes on an annual basis.

The things that are good about this bill are, they do promote, maybe not as much as all of us want to, but they do promote alternative sources of fuel. One of the most exciting is fusion, which is not necessarily 50 years away, but maybe within a couple of decades.

Another interim fuel source or another interim mechanism is hybrid vehicles.

Another powerful, positive reachable energy source of fuel is hydrogen. Hydrogen is probably the most pervasive element in the universe. It is one of the most pervasive elements on the planet. And if we can do what the administration wants to do, perfect this technology, when you burn hydrogen, it is a source of independence for the United States; when you burn hydrogen, the exhaust is water.

So there are a number of alternatives, there are a number of positive things about this bill.

The CHAIRMAN. The gentleman from Texas (Mr. HALL) has 3½ minutes remaining.

Mr. HALL. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I rise today to strongly urge my colleagues to vote against H.R. 6.

The electricity provisions contained in title VII of H.R. 6 would, among other things, repeal the Public Utility Holding Company Act enacted during the Great Depression era that has protected investors and consumers from unconstrained market power by huge utility holding companies.

The title also includes transmission siting provisions which preempt not only State decisions about which new or expanded electricity lines should be built in local communities, but also Federal authority to decide whether lines should not built in our national parks and other public places.

The Republican bill's aggressive efforts to deregulate the electricity market not only exacerbates the sort of manipulation that occurred in California's electricity market from 2000 through 2001 that cost consumers $45 billion, it ignores any lesson that could be learned from Enron and other fraudulent players' actions in my State, my State of California, and further weakens Federal and State oversight abilities.

I strongly urge my colleagues to vote against the bill.

Mr. HALL. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Texas (Mr. HALL) has 2 minutes remaining.

Mr. HALL. Mr. Chairman, I yield the remainder of my time to the gentlewoman from Texas (Ms. JACKSON-LEE), a very valuable member of our committee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member. It has been a pleasure to work with the Committee on Science on this very important legislation. We might be one of the few committees, Mr. Chairman, that has been able to look at this bill in a broad, global manner; and though I have some great concerns with some of the directions of this legislation, the drilling in ANWR that I believe can now be put on hold because of the very fine amendment that the Committee on Science worked on, the gentleman from Texas (Mr. LAMPSON) and myself, that asked the Interior Department to assess the value of deposits in the Gulf and to begin to reinforce further drilling in that area in an environmentally safe climate.

We are trying to find constructive ways to deal with the energy issue of this Nation. We want this Nation to be strong and independent as it relates to energy; and so we worked in a bipartisan way. One of the amendments that was included is the question of utilizing secondary batteries, an amendment that I got in. I am very proud to note that the committee, in a bipartisan way, worked on bioenergy funding research for HBCU's and tribal- and Hispanic-serving institutions. We are trying to prepare our young people to be the future scientists of the world.

Additionally, I think it is very important to note that we have an amendment that I authored that creates a relationship between the Department of Energy and NASA. Some of the technology on weather and other sciences that NASA has would be very useful to the Department of Energy. I believe we can get to the point of presenting a national energy agenda that respects the environmental approach to such, but as well recognizes that we have many wonderful resources, including oil and gas, that we can mine these, if I can use that terminology, in an environmentally safe manner, that we can promote job growth, that we can enhance the scientists and the researchers of the Nation by training our young people, by involving our historically black-, Hispanic- and tribal-serving institutions.

We can do this in a bipartisan way. I hope the amendments that have been offered by my colleagues on the Democratic side will be accepted. And I hope, when we finish this, Mr. Chairman, we will have a bill that all of us will be able to enthusiastically vote for because it is in the national interest, and I believe it is important to move this legislation forward.

I thank my colleagues in the Committee on Science for working in such a bipartisan manner.

The CHAIRMAN. The Chair will now recognizes the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) to control 10 minutes each.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, we have a number of challenges when it comes to developing a balanced energy policy for the future of our country.

First of all, we have to look at the future, and all of us can talk about where we want to go in terms of our future energy needs and how those needs are going to be met. We can talk about wind power and solar power, about fuel cell technology and all of the new things that are coming on line, and the technology that is being developed; and I think that is great. I think we all know that one day that is how we will solve the energy challenges that we have as a country.

But we also have to look at the needs of today and what we are currently using and what we are dependent on and how we meet those challenges. The solutions that we come up with in this bill identify both of those, needs and challenges. We have sections in the bill that deal with alternative energy and our future needs and how we are going to put money into research and technology, and the Committee on Science has done a great job with that and the Committee on Energy and Commerce has done a great job with that.

In our committees, the Committee on Resources, we also addressed those alternative energy needs, and that is extremely important; but when we look at our needs of today and how we are going to meet those needs, we have to look at increasing production in this country to take away the demands on foreign energy and the reliance we have on countries like Iraq and others for bringing that energy into this country.

Part of that is increasing production on public lands. The ANWR is part of that, the Arctic National Wildlife Refuge, and out of that 19-million-acre refuge, we are proposing that we take a very small part of that to help solve our Nation's needs. I think as we look towards how we put together a balanced energy policy, this bill accomplishes that.

Now, I know that we went through years in writing this bill. We went through hearing after hearing. We had mark-ups. We had amendments. We had more than a dozen amendments at the committee level, and many of those amendments came from my friends in the minority and several of them we accepted. And as we tried to put that bill together, we reached what was largely a bipartisan consensus on moving our titles of the bill. It passed out of committee with a 32–14 bipartisan vote coming out of the committee.

There was general consensus amongst the members on the committee that this was the right way to approach all of our problems. That does not mean that we all agree on everything, that all of us got everything we wanted. But what it means is that it was a compromise, and it is a bill that we can all be proud of; and I urge my colleagues to support the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is no secret that I oppose much of what is contained in H.R. 6 and especially provisions approved by the Committee on Resources. However, I do want to publicly thank the Committee on Resources chairman, the gentleman from California (Mr. POMBO), for his fairness, his fairness in allowing all the amendments to be heard during the committee consideration of this bill in a very judicious manner, and I appreciate that.

Now, while I am disappointed that my substitute to the Committee on Resources provisions was not made in order, I do appreciate, as well, the Committee on Rules making in order my amendment to strike the Federal coal leasing provisions, as well as the gentleman from Wisconsin's (Mr. KIND) amendment to strike the non-ANWR oil and gas provisions.

Finally, to my friend, the gentleman from California (Mr. THOMAS) the distinguished chairman of the Committee on Ways and Means, I thank him for having an amendment made in order to strike from this bill provisions which would have done great harm to retired coal miners and their widows; and the chairman and I have personally discussed this issue.

With that, Mr. Chairman, I end my kudos.

Today, this body is considering legislation that represents an unprecedented assault on America's resources and on American taxpayers under the guise of contributing to our energy security. The fact of the matter is that there is little in the way of relief for Americans at the gas pump in this bill. Adding insult to injury, the legislation would gouge Americans even further through a whole host of taxpayer subsidies to energy producers. This is misguided relief.

It is not for consumers but for multinational corporations drilling for oil and gas in Federal Gulf of Mexico waters by granting them a taxpayer-subsidized royalty holiday. They get to drill and the taxpayer foots the bill by forgoing royalty payments. An unwarranted drilling incentive at a time of high energy prices, a staggering budget deficit, and the yet unknown full cost of the war in Iraq.

In fact, this legislation contains so many royalty reductions and kickbacks that the Treasury stands to lose a mint. There are royalty holidays for deep-water wells, shallow water/deep wells, and marginal wells. Just name the site and there is a good chance a company will be relieved of its debt to the country. It is probably easier to identify who would actually have to pay a royalty rather than who would not if this bill were to become law. Robin Hood must be turning in his grave.

Even America's natural resource heritage would be placed at risk under this legislation, whether it be along the Rocky Mountain front, our national forests, ANWR or in Federal waters near beach communities. These areas are all targeted for increased energy development under the bill. Americans and the majority of Representatives in this body do not believe we must sacrifice our heritage and our prized natural treasures to achieve greater energy self-sufficiency.

Americans need real relief from energy prices, yes, without a doubt, and potential natural gas shortages. When it comes to enhancing domestic gas, as well as petroleum supplies, I think we need to start thinking outside the box. This bill does not do that.

In my view, a real energy policy could increase domestic gas supplies in a responsible fashion which would include the following element, which is also missing in H.R. 6:

If we really want to think outside of the box, we should provide incentives to the utility sector to build coal gasification plants. We have been pouring money into Energy Department research on clean coal technologies for over 20 years. The technology is there. For instance, South Africa, for many decades, powers its entire country with synthetic gas and petroleum provided and produced from coal under what it calls the Sasol technology.

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Yet, today, there are only two coal gasification plants in commercial operation because it is far less expensive and easier for utilities to build small gas turbine generators. I believe it would be worthy to provide the utilities with an incentive to actually build coal gasification plants.

As my colleagues can see, I am not against well-thought-out, targeted energy incentives; but what I am opposed to are taxpayer subsidies for traditional oil and gas drilling at a time of high energy prices. That makes no sense. In my view, the economics of supply and demand will prevail without the government's meddling.

Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS), the vice-chairman of the committee.

(Mr. GIBBONS asked and was given permission to revise and extend his remarks.)

Mr. GIBBONS. Mr. Chairman, I want to thank the chairman of the committee for granting me the time to speak on this very important bill, and I rise in strong support of H.R. 6, the Energy Policy Act of 2003.

A keystone part of this bill is moving America into cleaner and better, cheaper fuels. This bill contains an important provision which will make geothermal power production on Federal lands competitive with power produced from fossil fuels.

Close to 75 percent of all geothermal resources suitable for generation of electricity are located on public lands. Nevada, where the Federal Government owns close to 90 percent of the land, has some of the best geothermal potential in the United States.

Unless geothermal power derived from public land is more competitive with other power sources, little of Nevada's geothermal potential will be developed.

This energy bill allows Nevada and more of our Nation as a whole to become more energy self-reliant. By promoting greater use of geothermal energy, a clean alternative energy source that is relatively abundant within Nevada and the West, our Nation will make great strides in reducing our dependence on foreign oil and other energy sources blamed for increasing pollution.

I urge the adoption of H.R. 6, the Energy Policy Act of 2003, which will benefit not only my State but our entire Nation by encouraging alternative energy production and finally creating a national energy blueprint for greater self-reliance in the 21st century.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank my friend for yielding time to me, and I would also commend my ranking member on the Committee on Resources for the leadership that he has shown in regards to this issue.

Mr. Chairman, I stand here today as the ranking member of the Subcommittee on Energy and Mineral Resources on the Committee on Resources, and stand here in great disappointment because I feel that this energy bill, which is so very important for the future of our growth needs and for our Nation as a whole, is a missed opportunity. Rather than coming forward with a very bold and innovative vision in regards to putting our Nation on track for true energy independence, this bill is more same-old, same-old. In fact, it is better suited for the challenges of a mid-20th century rather than the opportunities and the technological development that will present itself here in the 21st century.

If anyone has any doubt in regards to the necessity of establishing this type of energy vision of greater energy independence for our Nation, we need only look at the conflict that is taking place in the Middle East right now and our overreliance on the importation of those oil supplies from the Middle East; and if we could do one thing that would benefit the people in the Middle East and their society, it is to require them to start drilling the human capital for economic growth in their own nations rather than drilling their own natural resources for their wealth because of the great demand for oil from other nations, primarily from us.

Yet instead of putting forward an energy plan that calls on greater investment and reliance on alternative renewable energy supplies from wind, solar, geothermal, as my colleague just mentioned, and biofuels as well as the energy source of the future, hydrogen power, we are basically presenting a plan here which is to ''drill at taxpayer expense,'' increasing our reliance on oil consumption in our economy, rather than weaning ourselves off of it.

We only hold 2 percent of the oil reserves in the entire world within our borders. Clearly, if we continue to puesue an increased reliance on this energy source, we are not going to achieve the independence that we need. Instead, we need a bolder vision, an Apollo energy plan, so to speak, similar to Kennedy's call to put a man on the Moon by the end of the decade.

At the time when he said that in 1962, most of the best minds and scientists at the time looked at him and thought he was crazy. As we were launching the Saturn 2 and Jupiter missiles, we were lucky if they were not exploding on the launch pads. If they did get into the air, they did not last very long before they exploded into the ocean, let alone putting a human on top of one of those things, landing them on the Moon and safely returning them to the Earth. And yet that was achieved because the President presented a vision and the leadership and he marshalled the collective intellect and resources in our country to do it.

We can do the same thing today with a bold energy policy by investing in the alternatives and renewables and a quicker development of hydrogen power. Yes, there are some programs in this bill that would point in that direction, but it is not anywhere near enough of where we need to go to wean ourselves off fossil fuels while also addressing the global consequences of global warming.

Title II in particular, by granting royalty-in-kind and royalty holidays to the oil company, is nothing but a big subsidy, a big tax cut to these very companies at taxpayer expense. Something that then candidate Bush even opposed during his 2nd Presidential campaign.

We can do better, and I would encourage my colleagues to vote ''no'' so we have a chance to do better.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. REHBERG).

(Mr. REHBERG asked and was given permission to revise and extend his remarks.)

Mr. REHBERG. Mr. Chairman, Montana is known as the Treasure State because of our natural beauty and the natural resources that we can provide for economic and energy independence; but Montanans, I have learned, do not care so much about energy portfolio, grids or Btus, and they sure as heck do not care so much about partisan politics; but they do care about, our seniors want to know that when they move up the little knob on their thermostats that they will have heat. Our mothers and fathers want to know that when they turn their ignition their cars will start so they can take their children to school, and our small businessmen and—women want to know when they try and open up in the morning, when they flip that switch, there is electricity.

It is interesting for me to hear the opponents of this bill who have been in this Congress for 20, 30, 40, and almost 50 years talking about solving the problem. When is the bill perfect? Where has been the solution for the last 20 or 30 years? We are waiting for it. I remember as a young man standing in line to buy gasoline in 1979, and we talked about the energy independence of this country. When is the time? It is now. It is time to solve it now.

This is a well-designed plan, a well-thought-out energy policy that may not be perfect in the long run, but is a vision to build America's future. The worst thing that we can do is create an energy debt for our next generation.

I look all over this Capitol, and I see young men and women who someday may not have the opportunity to drill one more well, dig one more shovel full of coal. If we do not have a plan in place, where we can have used some of the new technologies to invent our way out of this problem, if we do not have a policy in place that has loans and grants to give to the young minds in the scientific community to invent our way out of this problem, if we do not have the technology and the infrastructure in place to take advantage of all of the exciting things with geothermal and such, we have done a real disservice. We have created an energy debt far more serious than a financial debt that we are creating.

Let us not create an energy debt. Let us not wait another 20, 30, 40 years. Let us solve the problem now. Vote for this bill.

Mr. RAHALL. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from West Virginia (Mr. RAHALL) has 2½ minutes remaining. The gentleman from California (Mr. POMBO) has 3½ minutes remaining.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ENGEL).

(Mr. ENGEL asked and was given permission to revise and extend his remarks.)

Mr. ENGEL. Mr. Chairman, I thank my friend for yielding to me.

Mr. Chairman, there are four committees that have jurisdiction over this bill, and one of them is the committee on which I serve, the Committee on Energy and Commerce; and I thank the ranking member of the Committee on Resources for giving me this opportunity.

This was not a bill that was crafted in the middle. This is not a bill that Republicans and Democrats got together to produce a bill that is moderate, that the American people want to see. This was a bill that was put together by the Republicans and jammed down the throats of the entire Congress.

We were in committee last week until one o'clock in the morning, and every single Democratic amendment was voted down on virtually a party line vote. This is not the way to craft an energy bill for America. We need the talents of all the Members of the House in both parties to come together for the American people.

I am sorely disappointed that we are ignoring the underlying problem to national security, which is oil. There is nothing in this bill that reduces our consumption of oil. There is a lot of talking about drilling and production, but very little about conservation.

Rather than stimulating research and development into renewable generation, we continue to cede the development of alternative energy technology to Europe and Japan. Whereas once we were the leaders in exporting renewable technologies such as solar panels and wind turbines, the U.S. now lags behind.

At the same time, 72 percent of Americans believe that renewable energy sources should be our priority right now. We are missing a huge opportunity to create a renewable energy market that benefits both consumers and the environment. Our energy policy is tied to our national security and our economic well-being; and we need to ensure that this policy is diversified, reduces our dependence on oil, and creates skilled jobs by reducing energy costs.

We are missing a tremendous opportunity. This bill does not create a market for renewables. It mandates a fixed market for ethanol, while providing liability relief for manufacturers. This is wrong.

This bill does nothing to further laudable goals, and I urge my colleagues to join me in opposing H.R. 6.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Chairman, I rise today in strong support of H.R. 6, the Energy Policy Act of 2003. Many of the nations that we rely on for our energy needs prop up the very same regimes that our soldiers are battling against today. Just as our military is defending our national security, this Congress must act to defend our energy security because we are not secure as a Nation without energy security.

This bill sets the United States on a focused course to reduce our dependence on foreign energy sources, all the while meeting and exceeding the most stringent environmental standards any government has ever imposed.

Our Nation's public lands hold many treasures, from the Grand Tetons to Yosemite National Park; but some of our most valuable resources are clean-burning natural gas, oil and coal that can reduce our dependence on foreign energy sources and keep our environment clean.

The Energy Policy Act will provide better access to these oil and gas reserves and create a reasonable rights-of-way fee structure for pipelines, electric transmission, and telecommunications infrastructure. This will benefit both our rural and urban communities. In addition, this act requires closer consultation between Federal agencies when leasing decisions are made for national forest system lands.

The Energy Policy Act of 2003 will encourage more efficient government management of lands to reduce the backlog of pending lease decisions and permits to drill while maintaining America's unsurpassed environmental standards.

This act will maximize the recovery of coal on Federal lands which provides over 20 percent of our Nation's total energy consumption.

Mr. Chairman, the Committee on Resources developed this legislation only after holding well over a dozen hearings on energy production and hearing testimony from Members of Congress, local government officials, environmentalists, industry representatives, and administrative agencies.

This is a good plan, and I commend it to my colleagues and urge its adoption. The time has finally come to follow President Bush's lead and ensure that the people of this Nation will have a secure and affordable source of energy.

Mr. RAHALL. Mr. Chairman, I yield myself the remaining time.

As I conclude, let me note that all is not lost just yet. There still will be opportunities to improve the Committee on Resources provisions. The gentleman from Wisconsin (Mr. KIND) will be offering an amendment to strike the non-ANWR oil and gas provisions, the giveaways, if you will, from this bill; and that means that one can be for drilling in ANWR. I am not, but my colleague can be for drilling and still vote for the Kind amendment.

Then I will be offering an amendment to strike the Federal coal leasing provisions that are anticompetitive and do real harm to consumers and coal miners in many States.

Mr. Chairman, I yield back the balance of my time.

Mr. POMBO. Mr. Chairman, I yield myself the remaining time.

In conclusion, I would just say that, unfortunately, the choice that a number of my colleagues have offered is a false choice. What they have put up is we either can have energy production for today, or we can protect our environment. I believe that is a false choice.

I believe that we can take care of today's energy needs. We can develop the energy needs of the future, and we can protect our environment in the process.

Stripping out all of the oil and gas provisions in the bill, stripping out all of the coal provisions in the bill, stripping ANWR out of the bill, taking away all of our current production, the increase in our current production that we need today is not a responsible energy policy.

We agree on the future. We agree on the need for wind and solar and fuel cell technology. That we agree on, but we also have to agree on what we need today.

This was a bipartisan vote coming out of committee. I urge my colleagues to support it here on the floor today.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair now recognizes the gentleman from Louisiana (Mr. MCCRERY) and the gentleman from Massachusetts (Mr. NEAL) to control 10 minutes each.

The Chair recognizes the gentleman from Louisiana (Mr. MCCRERY).

□ 1545

Mr. MCCRERY. Mr. Chairman, I yield myself such time as I may consume, and I rise in support of the entire bill, but particularly Division D of the bill.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. MCCRERY. I yield to the gentleman from California for a colloquy between the chairman of the full Committee on Ways and Means and the gentleman from Kentucky (Mr. LEWIS).

Mr. THOMAS. Mr. Chairman, I thank the chairman of the Subcommittee on Select Revenue Measures for yielding. He has played a major role in putting together, with the members of the Committee on Ways and Means, the tax portion of the energy bill.

Mr. Chairman, one of the more enjoyable things about this job, when we know we are going to conference with the other body, is trying to anticipate the concerns of those who are trying to look at what the product of a conference committee is going to be prior to the opportunity of actually having the conference and putting the product together. So one of the things that I think is important for us to do is to engage in a discussion at this point of what we anticipate the conference report will look like.

As a first step, the gentleman from Kentucky (Mr. LEWIS), as a member of the committee, certainly has some concerns, and that is not so surprising when we recognize the fact that he is from the State of Kentucky.

Mr. LEWIS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MCCRERY. I yield to the gentleman from Kentucky.

Mr. LEWIS of Kentucky. Mr. Chairman, as my colleagues are aware, Division D, the Ways and Means tax portion of H.R. 6, includes provisions which will benefit the coal industry, such as repeal of the 4.3 cent surtax on each gallon of fuel used by barges and railroads. As coal is a major user of these transportation systems, repeal will substantially reduce the cost of getting coal from the mines to the power plants.

Further, the Committee on Energy and Commerce reported legislation, which, among other things, authorizes $200 million per year for 9 years for clean coal technology. This is the program to provide cleaner and more efficient electricity from coal-fired power plants. Mr. Chairman, industry advocates believe this part of the program is not, by itself, sufficient to enable some new technologies to realize their potential.

This year's Senate energy bill has a credit for investment in advanced clean coal technologies. I would like to inquire of the gentleman whether he might consider including some incentives in the conference report on H.R. 6.

Mr. THOMAS. Mr. Chairman, if the gentleman will continue to yield.

Mr. MCCRERY. I continue to yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding, and the question of the gentleman from Kentucky is obviously important not only to the gentleman from Kentucky, but the gentlewoman from West Virginia (Mrs. CAPITO) and, I am sure, a number of other Members on both sides of the aisle.

When we examine the Senate tax portion generated by the Committee on Finance of this energy bill, we find there are other credits that are not contained, for example, in the Ways and Means product, ethanol, biodiesel, coal and others. Similarly, the Ways and Means product has positions in it that are not in the Senate's. The goal would be to produce a product which picks up some of the more innovative approaches in the Senate bill, and we would hope, during the discussion, that the Senate would do the same.

The particular provision that the gentleman mentioned, the 4.3 excise tax removal, happens to be one of the few items that is exactly identical in both bills. That is an important decision. It means that decision has already been made. I can assure the gentleman that, as we sit down with the Senate, a number of those items, such as those that the gentleman has suggested, will be part of the melding of the Senate and the House packages.

Of course, it has to yet happen, and I know the gentleman will rely on me to provide a package from the House side that takes the important provisions of the House package and that the Senate will maintain the important provisions of its package. We will meld the two and bring it to the floor, and I am sure the gentleman will be very much in support of the conference report when we bring it to the floor.

Mr. LEWIS of Kentucky. I thank the chairman for his consideration.

Mr. MCCRERY. Mr. Chairman, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the legislation that is in front of us for a variety of reasons, but I want to speak specifically to a couple of issues in the tax portion of this bill that I think ought to raise the concern of every Member of this body.

Earlier today, Mr. Chairman, this House voted for a resolution drafted by the majority which calls for an end to tax loopholes, and not 1 hour later did the House begin consideration of an energy bill which cements into law a $4 billion tax loophole. Now, I know this might sound strange this far after April Fool's Day, but sadly it is true.

The bill we are considering today will protect all corporate expatriates who have already left. And for the viewers, understand these are corporations who have moved offshore for the purpose of avoiding American corporate taxes at the very same time that 400,000 men and women in uniform are in Iraq. But let us, for a couple of moments here, discuss who these privileged few corporate expatriates are, why they are being protected in this bill, and what this means for America's energy sector.

If Tyco, who left New Hampshire for Bermuda, paid the $400 million a year in U.S. taxes it now avoids through the Bermuda loophole, we could easily afford all of the new section 45 wind energy and other related credits called for in this bill.

If Ingersoll-Rand, who left New Jersey for Bermuda, paid the $40 million a year in U.S. taxes it now avoids, we could easily afford the new credit for energy efficiency improvements for existing homes called for in this bill.

If Cooper Industries, who left Texas for Bermuda, paid the $55 million a year in taxes it now avoids, in 1 year we could pay for an entire decade of business and nonbusiness-qualifying fuel cell tax credits called for in this bill.

That is not enough? Well, if Weatherford, who left Texas for Bermuda, paid the $40 million a year in U.S. taxes it now avoids by the Bermuda loophole, we could easily pay for the new electric and clean fuel vehicle tax credits called for in this bill.

Furthermore, if the loophole was closed today, rather than permanently granting special protection as this bill does, we could fund almost all of the conservation items in this bill. And yet, because we are not, we will be dipping into Social Security and Medicare to fund these broadly supported energy conservation incentives. Here is the frustration that the minority feels in this House.

Last year, I filed a bill to close the loophole that allows U.S. corporations to set up phony shell headquarters in Bermuda and thereby avoid paying U.S. income taxes. For a whole year that bill has languished, thwarted by the Republican leadership, that refuses to allow a floor debate on closing the Bermuda tax loophole. Mr. Chairman, the American taxpayer deserves better.

We are moving into the final weekend when average Americans are going to sort and move through a host of pieces of paper and receipts as they attempt to put together their tax obligation, and yet we cannot take the time over 12 months to close this Bermuda tax loophole.

I have repeatedly said on this House floor that we should bring this legislation to the floor; that there will be more than 300 votes for this legislation in this House of Representatives. It will sail through here. People will break their wrists trying to get to these small voting devices on the back of the seats so that they can vote ‘‘yes’’ on this provision to close that Bermuda tax loophole, which saves $4 billion as estimated by the Joint Tax Committee.

We can do much better, Mr. Chairman. Let us close the Bermuda tax loophole. And I urge my colleagues here, because of this loophole, to vote down this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCRERY. Mr. Chairman, I yield myself such time as I may consume.

(Mr. MCCRERY asked and was given permission to revise and extend his remarks.)

Mr. MCCRERY. Mr. Chairman, lest anybody forget, we are debating the energy bill here this afternoon, and I would hope that is what we would focus on. However, there is contained in our bill a provision which gets to the problem that my friend from Massachusetts just talked about; and I agree with him that there is a problem with companies artificially reincorporating offshore in order to gain tax advantages. I differ with my friend from Massachusetts, though, on how we ought to solve that problem.

What we have done in this bill, though, is provide for a moratorium on any more such corporate inversions until we can work out a legislative solution that, I believe, will solve the problem without making our domestic United States corporations more vulnerable to foreign takeover.

So with that issue aside now, I would like to get back to the issue at hand, which is energy and improving the energy situation here in this country.

Our tax portion of this bill is a balanced approach. About one-third of the bill is for conservation; about one-third of the bill is for reliability, that is, making reliable our infrastructure for getting energy to the people who need it; and about one-third for increasing production, increasing the supply of energy resources here in this country.

So, Mr. Chairman, the Committee on Ways and Means, after several hearings last year in my subcommittee and one of the other Ways and Means subcommittees, put together a bill that we believe delivers a nice bang for the buck. We did have to downsize the package this year from the one we passed through the House last year, but we believe that this package will significantly increase the ability of the United States to provide the energy that our country needs.

Mr. Chairman, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time.

The other day I saw something in The New York Times that gave me hope. The White House had put in solar panels on one of the sheds out there. And I thought, well, my goodness, they must have some enlightenment down there at the oil ministry.

But when I offered an amendment in the Committee on Ways and Means that would have allowed us to have energy companies give tax-free bonds for the purpose of raising money for interest-free loans to homeowners to purchase solar equipment, every Republican in the committee voted ''no.'' I guess they did not get the message from the White House.

Mr. Chairman, it usually costs about $11,000 to put a solar panel on a home. It is not pie in the sky. Solar production has grown 600 percent since 1996. So this is something that everywhere else in the world they are doing, but not here, and certainly not in the Committee on Ways and Means, in a committee controlled by the oil industry.

We had a chance, if we had passed that amendment, to follow California. They always lead what is happening in this country. Watch and see. San Francisco puts panels on their buildings, Los Angeles, and Sacramento. They will be doing it, and all the rest of the country will be sitting around tied to these oil companies and saying to themselves, why is this?

Now, we gave an opportunity for the House to begin a program that would have had 2 million families with secure, clean energy. We could have gone a long way down the road toward meeting the Kyoto Accords. The President walked away from that and said, We cannot clean up the environment; no, sir, we cannot.

□ 1600

We cannot do anything, we are just hopeless, we Americans.

Well, if we put an area of 70 miles by 100 miles of solar panels in Nevada, we could provide all of the energy this country needs in one place. It can be done, and we have got to start it someday, but I guess this administration is going to keep drilling and drilling and drilling. It will not work, Mr. President.

Mr. MCCRERY. Mr. Chairman, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, when we think of Texas stereotypes, we think of cowboys and oil wells, longnecks and roughnecks. While we are proud of our past south of the Red River, the future of Texas increasingly lies, like the future of this country, with technology. That has been central to the development of our economy in central Texas.

Now the Clean Energy Incubator and the Austin Clean Energy Initiative are attracting national attention to our community. We are on the cutting edge of a new Texas that is creating jobs and helping preserve our precious natural resources with renewable energy solutions.

That is why, as the poster of the armadillo and the State capitol shows, it is Austin and the Texas hill Country in the ''Journey to the center of the sustainable Earth''. One would think, given the tremendous cost, not only in money but in blood, of having an energy policy that can keep our economy going, that someone at some time would begin to focus on sustainable energy and a new national energy policy.

This bill pays some pretense to supporting renewable energy, but the focus is not on conservation or sustainable energy. The focus is on the same type of oil-polluting industries where we have put most of our resources in the past.

Energy security is national security. It is time we focused on renewable energy. Instead, this bill is not so much an energy policy as it is a collection of unjustified tax breaks, loopholes, and dodges masquerading as an energy policy.

Nowhere is that more apparent than in this whole area of how we will treat those corporations that loved America so much that at a time of great national concern after the events of 9–11, a few corporations loved America so much that they left America. They refused to pay their fair share of the cost of our national security and homeland security.

Those fleeing corporations, where do they go for protection? Naturally, to the House Republican leadership and to this bill, a so-called national energy bill. What does it do for those corporations that abandon America at a time of great need? It grants them amnesty. It says ''go right ahead, do not pay your fair share of taxes on your American income. You do not have to do anything or rely on the Bermuda military for your protection.'' It says ''let those businesses and neighbors here in the United States that pay their fair share of taxes pay for those corporations that run off to Bermuda or Barbados.''

In this bill, even worse than their last bill, they moved the date for amnesty up a full year, from March of last year, and they grant that amnesty, interestingly enough, until just after the next Presidential election when they are going to ''explore'' this issue some more. This is one of the most outrageous of many outrageous provisions in this bill. At a time when so many Americans are sacrificing, these corporations are heading for the sands of Bermuda to plant their mailboxes firmly there, while our flag is planted in sands elsewhere.

Mr. MCCRERY. Mr. Chairman, I yield myself such time as I may consume.

There is a moratorium in this bill to keep corporations from doing just what the gentleman described. We are in agreement that should stop. The moratorium will give us time to plot the surest course to make sure that jobs are kept here in the United States and more jobs are created here in the United States.

As for the energy bill providing incentives for conservation and renewable sources, though, the previous speaker did not, I think, give the bill justice. Let me give some examples of the provisions in this bill which will conserve energy and encourage the development of renewable sources of energy. Tax credits for the installation of solar power and solar water heaters; it enhances incentives to generate electricity from wind, open-loop biomass, gas emitted by landfills, and the combustion of municipal solid waste. It speeds the development of fuel cells as a clean, efficient energy source, encourages consumers to purchase more fuel-efficient and fuel cell cars. It includes tax credits for homeowners and home builders investing in energy-efficient upgrades, tax credits for the combined installation of combined heat and power systems. It repeals the 4.3 cent general fund surtax on rail or barge which will encourage the transportation by a more efficient means, saving energy. It encourages production of cleaner-burning diesel fuel by taxing only the fuel content of diesel-water emulsions. The conservation title of the bill is $6.67 billion, 36 percent of the total cost of the bill.

Mr. Chairman, I would submit once again that this bill does do justice to the goal of conservation, but also recognizes the need for reliability of our infrastructure to get energy to consumers and also the need for more production of energy sources in this country.

With that, I would urge adoption of H.R. 6, and particularly urge Members to look at division D of the bill to see why this will finally give us a sound energy policy for this country.

Mr. HONDA. Mr. Chairman, I stand in opposition to the rule for consideration of H.R. 6. It is shameful, given the importance of energy to our national prosperity and the significance of the programs contained in this bill, that so little time was provided for debate on the bill and on the limited number of amendments that were made in order. Why does this rule so restrict the time for debate on amendments? The other side of the aisle will say we need to complete action on the bill before the recess, but no matter when we finish our bill, we will still have to wait for the other body to complete its work before the bill can go to conference.

I think the real reason we are spending so little time debating this bill and these amendments is that those on the other side of the aisle are afraid to expose this bill to the bright light of scrutiny. If the American public were given a real chance to see what is contained in this bill, the outcry against it would be deafening, so we are rushing it through with a minimum of debate.

There are very few things I like about the bill itself, either. However, I do support Division B, and I am proud to be a member of the Science Committee, which authored this portion of the bill. We have included such beneficial programs as energy efficiency and renewable energy research and development, the next generation lighting initiative, and the clean school buses program.

We have also increased support for the basic sciences at the Department of Energy generally and focused on several programs in particular, such as nanotechnology research and development, U.S. participation in the ITER fusion energy project, and advanced scientific computing for energy missions. I commend the bipartisan leadership of the Science Committee for including these important provisions in the bill.

Unfortunately, I cannot say the same thing about the rest of the bill, and I urge my colleagues to support amendments that will be offered later by Chairman BOEHLERT, Mr. DINGELL, Mr. MARKEY, Mr. UDALL, and many of my colleagues from this side of the aisle.

I stand in support of the Boehlert/Markey amendment. The auto industry has claimed that if CAFE standards are raised, they might have to stop making SUVs. Yet their actions directly contradict these words. Recently Ford, Toyota, and GM all announced plans to introduce SUVs that travel over 35 miles per gallon during the next couple of years. Toyota has demonstrated with the Prius, which I drive, that hybrid technology works and consumers love it. Auto companies are showing that they have the technology to improve fuel economy—without sacrificing safety.

I stand in support of the Dingell amendment. The Federal Energy Regulatory Commission (FERC) has recently reported that during the California energy crisis, companies such as Enron, Reliant, and BP Energy deliberately manipulated the deregulated market to gouge consumers, but it is still not clear that consumers will receive the refunds they deserve. It seems clear to me that we need to improve consumer protections, not weaken them, but that is exactly what the H.R. 6 does. It promotes nationwide deregulation and repeals PUHCA (the Public Utility Holding Company Act). In contrast, the Dingell Amendment removes the deregulation provisions, increases FERC authority to combat fraud, and authorizes FERC to refund electricity overcharges back to the date when they began.

I am in opposition to the Wilson amendment. This amendment grossly misrepresents the actual areas of the coastal plain of ANWR that will be affected. The Interior Department estimates that drilling would actually affect 12,500 acres with roads, drill pads, processing facilities and airports, spread over hundreds of square miles. Drilling would also require 1200 acres for gravel mines needed to construct gravel roads within the 2000 acres, roads that are not subject to the 2000-acre rule. Existing oil field sprawl on the North Slope of Alaska has a ''footprint'' of 15,500 acres, but actually spreads across an area of more than 640,000 acres. I urge my colleagues to see the 2000-acre scam for what it is

I stand in support of the Markey/Johnson amendment. Why won't the other side of the aisle listen on this one? The public opposes drilling in ANWR. The other body voted to remove drilling provisions from the Budget. The distinguished chair of the other body's Energy Committee realizes that this will not be in a final energy bill and has said he will not bring it up. It isn't worth drilling in ANWR. There is less oil there than the U.S. consumes in 6 months, so it won't provide energy security. A policy that focuses on a clean, sustainable, and affordable energy supply would create more jobs than drilling in ANWR ever would, possibly 10 times as many. These would be permanent jobs, rather than the temporary jobs that ANWR drilling would bring. I urge my colleagues to protect our nation's largest and wildest natural treasure.

Finally, I stand in support of the Wu/Johnson amendment. In May of 2002, the General Accounting Office released a report that revealed an alarming disparity in salaries and rates of promotion between minorities when compared to white males in the same jobs at the Department of Energy's National Laboratories. GAO found that salaries for minority men and women and white women were lower than for white men, with the exceptions of Asian American men at Los Alamos and Sandia and Hispanic men at Lawrence Livermore. Comparing men and women of the same race/ethnicity, GAO found that White, Asian and Hispanic women earned less than their male counterparts.

The report also found that there are further areas for investigation. For example, with over 300 Asian American professional staff at Lawrence Livermore, not one was promoted to a managerial position between 1998 and 2000. When the report was released, I called for Congressional hearings to determine the cause of these inequities so that we may remedy them to ensure that the Department of Energy can recruit and retain the highest quality ethnically diverse workforce.

Unfortunately, the Science Committee took no action on this issue. The W/Johnson amendment would finally bring about some Congressional action, by requiring the Secretary of Energy to report to Congress on DOE lab's equal employment opportunity practices in promotion, pay raise, discipline, and recruitment and retention efforts.

Mr. ALLEN. Mr. Chairman, America needs an energy policy that increases our national security, encourages new technologies, enhances economic growth, preserves the environment, and protects consumers.

Our nation now spends nearly $200,000 per minute overseas to buy oil, mostly from undemocratic regimes. But this bill does not redirect American energy policy. H.R. 6 only reinforces the failed energy policies of the past, policies which have increased our dependence on fossil fuels.

Unfortunately, this bill never escaped the circumstances of its conception in the secret, closed door meetings between Vice President CHENEY and the CEOs of the energy industry. Instead of seeking a balanced, bipartisan energy policy, this legislation discards key compromises forged with the widespread support of Republicans and democrats in the 107th Congress. It puts the interests of big energy ahead of consumers and the environment.

The bill before us rewards private industry at the expense of the public interest and national security. It provides a $200 million subsidy to the hydro industry; a $397 million subsidy for nuclear fuel reprocessing, a process banned since the Ford Administration; a $1.7 billion hydrogen subsidy to the auto industry; and a $1.8 billion subsidy for clean coal technology.

The legislation opens a pristine wilderness, the Arctic National Wildlife Refuge, to oil drilling. The bill opens the possibility of oil drilling in offshore areas of the Gulf of Maine. The bill even rewards oil companies for exploiting our public lands by lowering the rent they have to pay.

The bill does not redirect energy policy because some businesses claim that they cannot compete in a cleaner, more efficient economy. I believe America's energy policy should actively promote policies that will allow American industry to catch up to other nations' advancing energy sectors. American companies trail behind Iceland in hydrogen and geothermal development; behind Denmark in wind energy; behind Japan in efficient vehicle development and home heating efficiency; and behind Germany in diesel powered engine efficiency.

These are high growth industries. Wind energy is the fastest growing power segment in the world. America has the high tech work force, the research institutions, and the capital to lead in each of these industries. If we commit to supporting new technologies, our companies will again lead the world in the energy industry.

Finally, this bill represents a missed opportunity to adopt a forward-looking energy policy. We should have seriously dealt with the challenge of climate change, raised CAFE standards that regulate the fuel efficiency of our cars and trucks, and established a renewable portfolio standard to encourage the development of new technologies.

Mr. LEVIN. Mr. Chairman, I had hoped that I would be able to vote for the energy bill before the House today. Now more than ever, this country urgently needs a balanced, forward-looking policy to meet America's energy requirements in the 21st Century. Unfortunately, the energy legislation before the House falls far short of even the minimum requirements of a balanced, comprehensive energy program. I therefore urge my colleagues to join me in opposing passage of this bill today.

The overarching flaw in this bill is its lack of balance. This legislation contains relatively few energy conservation provisions and instead places most of its emphasis on production of traditional energy sources. In so doing, the bill weakens important environmental protections and offers subsidies and incentives to industry, even in cases where none are required.

I am also extremely disappointed that one provision of this bill would open the Arctic National Wildlife Refuge to oil and gas drilling. This provision would do serious environmental harm to one of the last pristine wilderness areas in America. It might be argued that doing so could be justified if drilling in the Refuge would substantially lessen U.S. dependence on foreign sources of oil. But we know that this is not the case. According to a 1998 U.S. Geological Survey study, the mean estimate of economically recoverable oil in the Refuge is 3.2 billion barrels, an amount roughly equal to the amount of oil the U.S. consumes in six months. We can't drill our way to energy self sufficiency. We need to look at alternatives to oil and make better use of advanced technology to lessen U.S. dependence on it.

The $18.6 billion tax package contained in this legislation is similarly unbalanced. These incentives would overwhelmingly go to energy production and transmission at the expense of conservation, energy efficiency and developing alternative energy. In particular, the incentives provided for alternative fuel vehicles in the bill are inadequate.

I believe consumer-based tax credits are needed to accelerate the introduction of hybrid and other alternative fuel vehicles. Sales of hybrids and all other dedicated alternative fuel vehicles in 2002 represented just two-tenths of one-percent of total vehicle sales. For example, Ford produces 375,000 Taurus cars each year. Honda sells 360,000 Accords. By comparison, the most popular hybrid automobile—the Toyota Prius—sold just 18,000 vehicles in 2002. Clearly, we need a meaningful tax incentive to prime the pump on hybrids and other alternative fuel vehicles. The federal government has a vital role to play in encouraging manufacturers to build, and consumers to purchase, these advanced technology vehicles.

If we go forward with an energy bill that lacks a meaningful incentive for alternative fuel vehicles, including an enhanced credit for hybrids, I believe we would be making a serious mistake.

At the end of the day, the energy bill before the House is unbalanced, incoherent, and environmentally risky. It deserves to be defeated.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of Title VIII of H.R. 6, the Insular Areas Energy Security Act and I want to thank the Chairman of the Resources Committee, Mr. POMBO and especially the Ranking Member, Mr. RAHALL.

While I am pleased that H.R. 6 includes the Insular Areas Security Act, I am disappointed that a substitute amendment by Mr. RAHALL was not made in order because I believe it was a better solution to the concerns over energy production we are having in our country. The Rahall amendment would have ensured that more domestic energy is introduced into the domestic market, relieve transmission constraints for our western States, encourage renewable energy on federal lands, assure fairness in oil royalties, and protect our environment and our nation's monuments and parks.

The Insular Areas Energy Act will update a nearly twenty-year-old assessment of energy importation, consumption, and alterative indigenous sources that can be used by insular areas. A new part of this reassessment will be a recommendation and plan to protect energy transmission and distribution lines from the effects of hurricanes and typhoons. The amendment also gives the Interior Secretary the authority to fund such recommendations.

We are all aware of the tragedy and destruction a hurricane or typhoon brings once it reaches land. The majority of Americans become aware of such a storm when it heads up the eastern seaboard or makes its way inland from the Gulf of Mexico. They are awesome and dangerous. And there is not much that can be done when it is headed your way. Those of us whose districts have been in the path of such storms can attest to the devastation.

The Virgin Islands is affected by the strongest of storms, like Hugo and Maryland that eventually make their way to the U.S. mainland. But we are also all too frequent a target for lesser known hurricanes that never make it out of the Caribbean Basin but still manage to inflict just as much damage as those that reach Florida.

Some of the costliest destruction is to the Virgin Island's electrical infrastructure. Island wide outrages are common in the wake of a storm because our lines are not as hardened as they could be from a storm's strength. Ideally, in any location that experiences as much hurricane activity as my district, transmission lines should be buried underground. To have the majority of our electrical lines above ground poses a great threat to residents during storms and makes our system vulnerable and costly to repair.

I am pleased the Insular Areas energy act has been included in this bill which will work towards making our islands safer and less vulnerable to the devastation brought upon us by hurricanes.

Ms. PELOSI. Mr. Chairman, today we should be bringing to the American people an energy policy that is worthy of the 21st century. A policy that sets us on a path toward reliable sources and supplies of energy, and a cleaner environment. A policy that promotes efficiency and innovation, and provides more protection for consumers.

But the bill the Administration and the Republican leaders have brought to the Floor looks backward and not forward.

The Republican bill authorizes drilling in the most fragile untouched wilderness of the Arctic in search of a six-month supply of oil that won't reach the market for another 10 years.

The Republican bill makes our air less healthy and our water more dirty. It jeopardizes the health of our children. It allows companies to force diesel fuel into the ground in a way that could threaten the water table in order to fracture and retrieve oil deposits. It jeopardizes the protection of rivers and fish on behalf of hydroelectric companies.

The Republican bill allows oil and gas development on sensitive coastal lands and exempts oil and gas drilling sites from water pollution requirements. It includes a variety of taxpayer handouts to oil and gas companies, and protects corporate expatriates that have already moved overseas by grandfathering in their tax breaks.

And most significantly to those of us from California, this Republican bill strips out some of the few remaining federal protections for electricity consumers. In its place, we would be given a new, untested approach to electricity markets.

I have a word of warning for my colleagues: "Remember California." At first, our new competitive electricity market was hailed as a boon for consumers.

Then came the price spikes and the blackouts, as energy companies learned how to game the system. On two particular days in June of 2000, an energy company shut down power plants to drive up electricity prices. These two days, alone, cost wholesale energy buyers at least an extra $13.8 million.

Federal regulators stood by and watched as Californians paid and overpaid to keep the lights on. And we are still paying, and we will continue to pay for years to come.

Finally, just last month, federal regulators announced that 37 energy companies and utilities violated energy trading rules.

There will be more indictments and admissions related to manipulative practices in California. But most of the money is gone, never to be recovered.

And yet, the energy policy the Republicans are bringing forward today will leave consumer all over the country even more vulnerable to the fraudulent and manipulative practices that led to the rolling brownouts and unreasonable prices we experienced in California.

It repeals an essential federal consumer protection that limits concentration of market power within the utility sector and helps protect ratepayers from the risky investments of the electrical utilities that serve them.

One of the laws repealed is more crucial today than ever to protect consumers from abuses in the utility industry. It is the law that prevents Enron from owning, and abusing, more than one electric utility.

Just imagine what would happen if Enron had owned and used two utilities to manipulate prices two years ago.

This is why it is important to vote for the Dingell amendment which would allow us to retain critical consumer protections and provide the Federal Energy Regulatory Commission broader authority to act against fraud in both electricity and natural gas markets.

Mr. Speaker, the energy policy in this bill is not worthy of the 21st century. It is a policy mired in the past that offers the American people more of the same bad choices—fewer consumer protections, and greater jeopardy for public health and the environment.

It is a policy that will lead to greater pollution of our lakes, our rivers, the air that we breathe and the water that we drink.

And, of course, the budget-busting title full of corporate giveaways to oil and gas companies—at the end of the day—will not yield the energy independence we seek for our future.

We can do better. We can look forward to 2050 instead of backward to 1950. We can bring to the Floor an energy policy that looks toward investment for new technologies, better efficiency standards and conservation policies that will truly lead us down the path to energy independence.

I urge my colleagues to have the vision to vote against this bill that takes us back to the past. Vote for the Democratic amendments that will take us into a secure and independent energy future.

Mr. HASTINGS of Florida. Mr. Chairman, I rise today not in support or opposition to the legislation before this body, but rather to bring to this body's attention the Majority's lack of consideration and complete disregard to issues of environmental justice.

Yesterday, during the Rules Committee hearing on H.R. 6, the Energy Policy Act of 2003, I offered an amendment that directed the Secretary of Energy to take all necessary steps and efforts to mitigate any adverse impacts that U.S. energy policy and the provision of H.R. 6 may have on minority, rural, Native American, and underserved communities. Additionally, it also requires the Secretary to submit to Congress an annual report detailing the Department's efforts to implement the requirement that I just described.

My amendment, as my colleagues and I in the Democratic Party see it, was non-controversial and essentially a reinforcement of a policy that already exists in the Department of Energy's. However, like in so many instances since 1994, the Republican Majority has neglected the responsibility that the Constitution instills upon us to always protect the rights of the minority and speak up for those whose voices all too often go unheard.

In 1994, then President Clinton signed Executive Order 12898 establishing an Interagency Working Group on Environmental Justice and directed all federal agencies and departments to make environmental justice part of their mission. Included in the Working Group were 17 departments and federal agencies, including the Department of Energy. The Working Group made a series of recommendations including the establishing of an Office of Environmental Justice within the Environmental Protection Agency (EPA). Under President Clinton, the EPA worked a great deal toward ensuring that environmental justice was a priority of all departments. However, like in so may other issues of equality and justice, the Bush Administration and Republican Majority have done little to advance the cause. And in many instances, their policies create situations where environmental injustice thrives.

Commitments that have been made by the Majority to consider issues facing minority communities when crafting legislation has been nothing more than lip service in the 108th Congress. Today's debate on H.R. 6 provided a great opportunity for Congress to reaffirm its commitment to environmental justice. But Republicans on the Rule Committee, by a straight party line vote of 9 to 3, denied me the opportunity to offer my amendment on the floor of the House. In doing so, Republicans further denied House Members the opportunity to reaffirm to minority and other underserved communities that Congress is committed to ensuring environmental justice is a priority to U.S. policymakers. The only thing left is for me to question whether or not the Majority really is committed to protecting the rights of minorities—and in this case, Mr. Speaker, I'm not talking about political affiliation.

Mr. Chairman, it is virtually impossible for Congress to consider energy policy without taking into consideration the effects that new and existing legislation will have on the environment and communities living in areas that are most impacted by such policies. If environmental justice is to be a policy of this government, then Congress must also look at the origins of the problem that exist.

More times than not, environmental injustice arises as a result of poor energy policy. I am not just talking about toxic emissions into the air from unclean smokestacks disproportionately affecting minority and underserved communities living nearest to these plants. I am also talking about, for example, the siting of future factories, production of automobiles, and the location of a waste dump. All of these issues are part of this energy bill, and all of these issues adversely affect minority and other underserved communities.

Environmental justice can no longer just be a part of the mission of the Executive Branch. Instead, it must also be the practice of federal departments and agencies, as well as the Congress.

My amendment further links energy policy to issues of environmental justice. It does not change the policy or the mission of the Department of Energy. Instead, it recognizes that energy policy does play a role in achieving environmental justice and requires the Secretary of Energy to consider this reality in implementing the provisions of H.R. 6.

Though the House will never have the opportunity to consider my amendment, I submit its text to the RECORD so that the American public can see the injustice that was done this morning by the Republican Majority when it denied consideration of my amendment.

AMENDMENT OFFERED BY MR. HASTINGS OF FLORIDA

In Division C, title IX, after section 30908 add the following:

**SEC. 30909. ENVIRONMENTAL JUSTICE.**

(a) FINDINGS.—The Congress finds the following:

(1) United States energy policy affects United States environmental policy, and United States environmental policy affects United States energy policy.

(2) In 1990, the Environmental Protection Agency's Equity Workgroup produced a report noting that racial minority and low-income populations bear a higher environmental risk burden than the general population.

(3) Many people of color, and low-income and Native American communities suffer a disproportionate burden of health consequences due to the siting of industrial plants and waste dumps.

(4) Executive Order 12898 established an Interagency Working Group on Environmental Justice comprised of 17 Federal departments and agencies, including the Department of Energy, to "coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy".

(5) Executive Order 12898 requires that "[E]ach Federal agency shall develop an agency wide environmental justice strategy . . . that identifies and addressed disproportionately high and adverse human health or environmental effects of programs, policies, and activities on minority populations and low-income populations".

(6) The Environmental Protection Agency defines "environmental justice" as "[T]he fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies".

(7) The Environmental Protection Agency further defines "fair treatment" as, "[N]o group of people, including racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations".

(8) The Environmental Protection Agency defines "meaningful involvement" to require that "the concerns of all participants involved will be considered in the decision making process and the decision makers seek out and facilitate the involvement of those potentially affected".

(9) Energy policy in the United States should not hinder or minimize the efforts of the Environmental Protection Agency, the Department of Energy, and other members of the Environmental Protection Agency's Interagency Working Group on Environmental Justice which have made environmental justice part of their mission.

(b) CONSIDERATION OF ENVIRONMENTAL JUSTICE.—In implementing this act, the Secretary of Energy is directed to take all necessary steps and effort to mitigate any adverse and disproportionate effects that the implementation of this Act may have on minority, rural, Native American, and other underserved communities. When appropriate, the Secretary shall coordinate with other Federal agencies to further environmental justice efforts of the Federal Government.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to the Congress a report detailing the efforts of the Department of Energy to comply with subsection (b) of this section. Following the initial report, the Secretary shall submit subsequent reports annually detailing the efforts of the Department to comply with subsection (b) and include recommendations on how the Department and the Congress can ensure environmental justice energy policy.

Mr. FALEOMAVAEGA. Mr. Chairman, today I rise in support of H.R. 6, the Energy Policy Act of 2003. H.R. 6 is a bill that addresses the need for a coherent and comprehensive national energy policy. It is a bill aimed at developing a competitive oil and gas leasing program, and a bill that recognizes the need for development of alternative modes of energy.

Mr. Chairman, I would like to take a moment to highlight a section in H.R. 6 of particular importance to the insular areas. The provision of this section requires a comprehensive energy report to be produced on consumption, importation, and potential for indigenous alternative energy in insular areas, which at present are highly dependent on energy imports. This provision is of vital importance to my district and those of my colleagues from the territories because it would provide for a process to help address some of the crucial energy needs of these insular areas.

This section also provides for creation of a grant program to fund projects for electrical power and distribution lines within the territories, which are highly susceptible to damages caused by hurricanes and typhoons. It is my hope that this legislation will begin to address our needs and move us toward the goal of giving the insular areas the tools we need to develop local sources of energy in a balanced and environmentally sound manner.

Mr. Chairman, I also want to express my support for opening the Arctic National Wildlife Refuge for oil and gas leasing programs. There has been much debate regarding this subject and I feel compelled to call attention to three key points.

As a staunch supporter of self-determination and economic development of indigenous peoples, I feel it important to recognize the opinions of those communities directly affected by the opening of the ANWR region. Surveys suggest, and even the National Research Council reports, that the resident of Kaktovik largely support the environmentally sensitive development of the 1002 area because it would provide significant economic resources to the Inupiqaq people. Additionally, the Alaska Federation of Natives recognizes the potential economic benefits to Alaska Natives and Alaska Native Corporations through the State, and as a result passed a resolution in support of legislation for opening the ANWR region.

Mr. Chairman, development of the ANWR also promises to provide jobs not only locally, but nationwide as well. Economic analyses forecast that as many as 735,000 jobs across the country could be created as a result of development of ANWR. As a nation we are enduring uncertain fiscal times and must consider all avenues available to help alleviate the burdens felt by states and individuals. The need for this legislation is reflected by that fact that many of the major labor unions, including the International Brotherhood of Teamsters, the Seafarers International Union, and the Laborers International Union, among others, back the development of 1002.

I would also like to emphasize the success of the Prudhoe Bay oil development program thus far. Since North Slope oil production began, the Central Arctic Caribou herd has to been detrimentally affected. It has, in fact, flourished. Since 1978, the herd has increased from 5,000 to approximately 30,000. We should look at the caribou as an example of how we can achieve a balance between technology and environment.

Mr. Chairman, the Resources committee had the honor of hearing testimony Ms. Tara Sweeney of the Inupiat tribe, who so eloquently expressed her peoples support of the opening of the ANWR area. We have heard a multitude of strong arguments on both sides of this issue, but perhaps none so compelling as

Ms. Sweeney's, who said, ''As a native people we do not have a hierarchy for traditional food. The caribou is just as important to our souls as the whale. We cannot live without both. That is an important point to remember when deliberating this issue. We would not recommend development if it sacrificed our access to caribou.''

While obviously there are many strong arguments both in favor and against development of ANWR, but the overwhelming support by the indigenous community in Alaska, along with the proven success of development thus far, is too often dismissed by opponents of this legislation. I am therefore supporting H.R. 6, and I urge my colleagues to support this bill as well.

Mr. EVERETT. Mr. Chairman, the Energy Policy Act of 2003 (H.R. 6) if a comprehensive package that balances conservation and efficiency, domestic production, research, and tax credits and incentives to promote increased development of traditional and alternative fuel sources.

The exploration for oil and natural gas in ANWR is a matter that has been hotly debated for the last two decades. However, this issue has come to the forefront due to recent high energy and gas prices, which have dramatically raised consumer concern.

This debate centers on whether the United States' interest in having a viable domestic supply of oil is worth the environmental risk of drilling in the refuge. The information we know so far is that far less than 1 percent of the 19 million acre refuge would be used for oil and gas development. In addition, improved technologies would be available, such as horizontal drilling, which allows oil to be extracted from miles around from a single point without any additional disturbance to the surface. Experts also predict that this could be the second largest supply of natural gas in America. In reference to reducing U.S. reliance on foreign oil, it is predicted that the output from this field could equal thirty years of imports from Saudi Arabia or sixty years from Iraq. As a result, our national security could be strengthened and the U.S. could have more control over its vital energy supplies. As you may know, the U.S. currently spends approximately $300 million per day from petroleum from overseas, which results in roughly $100 billion per year being sent overseas and thus helping to grow economies in those countries instead of ours.

H.R. 6 represents a well balanced and long overdue national energy policy that will help our country secure the energy it needs and ensure a healthy economy into the 21st century. This measure will reduce our dependence on overseas sources of oil and create jobs here at home, while protecting our environment for future generations. I look forward to seeing this bill approved by the House and a final version signed into law so the American consumer can begin to realized the benefits.

Mr. MARKEY. Mr. Chairman, I rise in opposition to this legislation.

American needs a balanced and comprehensive national energy policy. But the bill before us today is neither balanced nor comprehensive.

it is a polluting bill. It unnecessarily sweeps aside a wide range of environmental and antipollution protections in the name of increasing oil and gas drilling throughout the country, and burning more and more fossil fuels that spew pollutants into our air and water.

It is also a dangerous bill. It rolls back key consumer protections in the electricity and natural gas markets, such as the Public Utility Holding Company Act, while simultaneously failing to give federal regulators the full power they need to serve as the ''cop on the beat'' and prevent the type of fraud and manipulation that we have seen in electricity and natural gas markets in recent years.

We need a more balanced approach to national energy policy. Democrats support reasonable measures to increase energy production, but we also want to see measures aimed at improving energy efficiency and promoting alternative renewable generation technologies. For the most part, this bill ignores efficiency and renewables.

Yes, there is a modest appliance efficiency title. But does that title direct the Department of Energy to stop trying to rollback central air conditioning efficiency standards from the standards adopted by the Clinton Administration? Does it fully address the problem President Bush has identified of ''energy vampire'' standby power or battery charger systems for VCRS, DVDs, computers, that waste electricity? No, it does not.

And what about motor vehicle fuel efficiency? Two-thirds of all the oil we consume is used by the transportation sector. Does this bill do anything to improve automobile fuel efficiency or close the SUV loophole and require light trucks to use commercially available technologies that the National Academy of Sciences says could be deployed today? No, it does not.

And on renewables, yes, there are some tax credits in this bill for renewables. But the House Republicans have now altered this provision so that a dirty facility that burns municipal solid waste to produce energy would now qualify for the renewables credit.

Now, there are some provisions of this bill that I support. The Committee adopted the Cox-Markey amendments barring any indemnification of contractors that ship nuclear technology to North Korea or other countries on the terrorism list, and outlawing any exports, re-exports, or transfers of nuclear technology, materials or information to such countries. This amendment will effectively end any further efforts to transfer light water reactors to North Korea, and would prevent any similar efforts from being undertaken in Iran or Syria in the future. I commend the gentleman from California (Mr. COX) for his work on these measures, and I have been pleased to work with and support him in his endeavors.

The bill also contains amendments I attached to similar legislation in the last Congress which would require the NRC to issue new rules to increase the security of nuclear facilities on a permanent basis and the transportation of nuclear materials against the terrorist threat, and to assure public access to non-classified information about non-public NRC meetings. It also contains some new NRC and DOE whistleblower protection measures I authored that would close loopholes in the law and strengthen protections for those brave individuals that report wrongdoing at the NRC, DOE, or their contractors. I thank Chairman BARTON, Chairman TAUZIN, and Ranking Members DINGELL and BOUCHER for working with me to include these provisions in the bill.

In addition, the bill includes an amendment I worked out with the gentleman from Louisiana and the gentleman from Texas directing the FERC to take action to assure public access to natural gas market price information. This provision is intended to ensure that FERC or its designee to obtain information from any party needed to enable it to compile accurate natural gas price indexes. A series of studies and investigations by FERC and other federal authorities has revealed widespread manipulation of existing natural gas price indexes, and this provision is aimed at ensuring that FERC, state regulators, and the public can obtain access to the type of information they need to monitor the markets or determine market prices. At the same time, the provision does not require sensitive, transaction-specific information to be made public—though such information would be accessible to federal or state regulators.

These are useful and important provisions, and I support them. At the same time, I cannot support this legislation in its current form because of other harmful provisions in the bill.

The electricity title contains provisions repealing the Public Utility Holding Company Act, enshrining incumbent utility monopolies with anti-competitive and discriminatory ''native load'' protections, so-called ''contract sanctity'' language that is clearly aimed at preventing FERC from assuring just and reasonable rates, and a figleaf ''round-tripping'' provision that outlaws only one of the many manipulative practices we have seen in the electricity markets, while leaving the others untouched.

The hydropower title replaces the bipartisan hydro agreement reached in the last Congress with an unfair provision that gives dam owners special status to change environmental or other conditions imposed as part of the re-licensing process. This upsets the balance between how power and non-power values (such as fish and habitat protection, recreation, navigation, and irrigation) are dealt with in the Federal Power Act.

The oil and gas-related provisions in the Commerce and Resources titles would strip away environmental protections relating to the oil and gas industry. It would: Restrict the ability of California and other states to protect their coastal areas by amending the Coastal Zone Management Act; amend the Federal Water Pollution Control Act to allow more water pollution by creating a permanent exemption from the Environmental Protection Agency's (EPA) storm water rule; prevent the EPA from barring the injection of diesel fuel into underground sources of drinking water during hydraulic fracturing by excluding oil and gas operations from the Safe Drinking Water Act; grant multinational oil and gas companies licenses to drill on public lands and in coastal waters while avoiding obligations to pay hundreds of millions in royalties, depriving the U.S. Treasury of a key source of revenue; further add to the taxpayer's burden by allowing oil and gas companies to be reimbursed for the costs of permitting their activities under the National Environmental Policy Act, an estimated $165 million over ten years.

If these provisions are not stripped from this bill, either today or later in the legislative process, H.R. 6 should be defeated.

Mr. OXLEY. Mr. Chairman, I rise in support of H.R. 6—the ''Energy Policy Act of 2003.''

This bill contains several provisions that are under the jurisdiction of the Financial Services Committee and are identical to agreements between the House and Senate Conferees last year when considering the energy bill before the 107th Congress—H.R. 4. These provisions are non-controversial and reflect last year's bipartisan and bicameral support.

Division G, sections 70001 through 70010 include measures that will enhance energy efficiency in the housing arena as well as promote the idea that our country's representatives on the Board of Directors of the North American Development Bank encourage energy efficiency and conservations.

Specifically, the housing provisions would allow funding to non-profit organizations, including community development corporations and local cooperative associations, to promote activities relating to energy efficient, affordable housing and residential energy conservation measures that benefit low-income families.

Other measures include increasing the public services cap by ten percent to allow eligible communities and states to use Community Development Block Grant (CDBG) funds to pursue energy conservation and efficiency. Currently, the law limits, to fifteen percent, the amount of CDBG funds that can be used for public services associated with employment, crime prevention, child care, health care, drug abuse, education energy conservation, welfare or recreations needs.

In the real estate/housing market, the provisions would amend Federal Housing Administration (FHA) mortgage insurance programs to provide for an increase in loan limits up to thirty percent where the potential homeowner installs either a solar energy system or residential energy conservation measures.

Under assisted housing, the provisions would update the model energy codes of the Council of American Building Officials and the American Society of Heating, Refrigeration and Air Conditioning Engineers with the 2000 International Energy Conservation Code by September 30, 2004. Moreover, other assisted housing programs at HUD, such as public housing and HOPE VI have similar provisions to encourage the use of energy-efficient appliances, fixtures and building materials.

Mr. BEAUPREZ. Mr. Chairman, I rise today in support of House Resolution 6, legislation promoting the economic and environmental benefits of energy conservation, research and development. I commend this legislation for including further encouragement of the use of renewable energy sources. It is of the utmost importance in such internationally unstable times our great nation look for ways to improve the efficiency of fuel consumption within our own borders. It is imperative this body seeks and successfully implement sound renewable energy legislation.

House Resolution 6 requires the Secretary of Energy, in partnership with the private sector, to carry out a program addressing the production of hydrogen from diverse energy sources, the safe storage and delivery of hydrogen or hydrogen-carrier fuels, the development of safe and affordable fuel cells, and the development of necessary standards and safety practices related to hydrogen and hydrogen-carrier fuels. Activities must facilitate the development of hydrogen energy and energy infrastructure, fuel cells, advanced vehicle technologies, and clean fuels in addition to hydrogen.

But it doesn't stop there. I am encouraged to see that this visionary legislation also develops biomass as a source of renewable energy. Incenting the development of biomass as an energy resource will provide tremendous economic encouragement to implement effective forest management. From our existing hydropower infrastructure to new geothermal, wind and solar resources, this legislation proposes answers to the question—how do we power a modern society? It even looks to landfill gas as a source of energy.

In my home district, the sharp team at the National Renewable Energy Lab is working diligently to bring renewable energy ideas to reality. For this, Mr. Chairman, I am pleased the House of Representatives has set forth such promising legislation that will strengthen renewable energy alternatives and set a precedent for future generations.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of H.R. 6, the Energy Act of 2003. The bill is not perfect but it will make a great stride toward ensuring that the energy needs of America continue to be met in a changing world. Energy and energy policy re inextricably linked to the U.S. economy, and to the lifestyles of the American people. The business of energy is of critical importance to my constituents.

I wish this bill had more conservation measures in it and included some excellent amendments from my Democratic Colleagues that were buried in the Rules Committee; however, I believe that it is time to move forward in the energy debate. We cannot risk going through another Congress withouta comprehensive energy policy. There is much good in this bill, much of which came from some creative ideas an hard work in the Science Committee on which I serve. There may be a chance in conference later to remove some of the most offensive provisions of the bill. So, I will support this bill.

I come from Houston, Texas, what has been called the energy capital of the world, and I appreciate that oil and fossil fuels deserve much credit for driving our economy and prosperity over the past centuries. I know that coal, oil, and natural gas will continue to play a large role over the next century at meeting our energy needs. However, we all know that fossil fuels are not the wave of the new millennium. Our children, especially in the inner cities like in my District of Houston, have an epidemic of asthma from breathing smog and polluted air. We are overly dependent on foreign sources of oil, bought from people that we would prefer not to be reliant on. No matter how safe we try to be, shipping and pumping oil will occasionally lead to spills and leaks that have tremendous detrimental effects on the environment.

As we craft our national energy strategy, we must balance the need to power our economy and our lives, with our responsibilities as stewards of the environment. As we have worked in Committee, and as I cast my votes today, I will strive to achieve that balance.

I am pleased to see that four amendments that I offered in Science Committee in this and last congress have been incorporated into today's bill. Ensuring that our nation's Historically Black Colleges and Universities receive their fair share of research funding will allow us to harvest their great expertise and skills. It will also ensure that the next generation of leaders in the critical field of energy production and utilization will reflect the diversity of our great nation.

Second, my provision for the secondary use of batteries will also help keep our environment clean and improve the efficiency of energy use in the future.

Third, I am gratified to see that the spirit of the language offered by my colleague from Houston Nick Lampson and me has been preserved, requiring the Secretary of the Interior to report to the Congress as to the oil and natural gas reserves in waters off the coast of Louisiana and Texas. That idea was actually expanded into section 3020 of H.R. 6, which will lead to a much more comprehensive understanding of our nation's oil production capabilities. No matter how we decide to manage our resources in the future, it is important that we take stock and are informed about our options.

One reason I felt it important to study the production potential in the waters off of Louisiana and Texas was that Gulf of Mexico oil has been successfully pumped and shipped for years. Thus, little additional impact on the environment would be expected if oil exploration were to be expanded in the future. Tapping such reserves satisfy our domestic needs, and will enable us not to pump oil of previously untouched areas—national treasures like the Arctic National Wildlife Refuge.

New technologies are emerging rapidly to harvest the power of the sun, the wind, and of water to drive progress in the new millennium. Hydrogen holds great promise for becoming a fuel of the future to power our cars and trucks and even household devices with fuel cells. If we know that such technologies will be the way of the future—it is just smart policy to do all we can to stimulate the transition to go as efficiently and expeditiously as possible. We must also ensure that once the transition occurs, that it is American companies that are on the cutting edge of technology—leading and enjoying a good proportion of market share.

Another amendment that I offered in the Science Committee markup, and is in H.R. 6, will help that transition occur. The provision will require the Department of Energy to enter into discussions with the NASA Administrator, which will enable DOE to tap into the vast expertise in energy gained from past and future research—in order to find technologies that could bolster the existing commercial applications programs at the DOE.

Recently, six agencies, including NIST, DOE, NASA, and the Office of Energy Efficiency and Renewable Energy, launched an effort to improve the exchange of information about their technical programs and to collaborate, in order to ''enhance payoffs from federal investments.'' I applaud that effort. Unfortunately, they have limited their initial priority areas of focus to intelligence in manufacturing and nanotechnology.

Energy security is absolutely vital to our nation's long-term survival, and the well-being of our environment. My amendment will build on the existing agreement between the six agencies, by broadening their focus to include DOE/NASA interactions meant to stimulate progress in development of alternative and renewable energy sources. It will have minimal costs, but could yield great benefits.

Another way to improve energy security is to prevent fraud and abuse in the energy industry. I will support the Dingell amendment to decrease fraud in the electricity industry.

I would also like to add my support to the excellent amendments being offered today by my Democratic Colleagues. Our energy needs are complex. We need to be approaching energy policy from multiple directions, with diverse input, in a bipartisan fashion, in order to develop creative strategies for fueling the economy of the future in the sensitive global environment.

I urge my colleagues to ensure that that spirit is reflected in the ultimate Energy Act that emerges from Conference. I will continue to work for smart sustainable energy policy, and I will vote for H.R. 6.

Mr. McCRERY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 6 is as follows:

H.R. 6

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

## DIVISION A—ENERGY AND COMMERCE

**SEC. 10001. SHORT TITLE.**

This division may be cited as the ''Energy Policy Act of 2003''.

## TITLE I—ENERGY CONSERVATION

### Subtitle A—Federal Leadership in Energy Conservation

**SEC. 11001. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.**

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end:

**''SEC. 552. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.**

''(a) IN GENERAL.—The Architect of the Capitol—

''(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the 'plan') for all facilities administered by the Congress (referred to in this section as 'congressional buildings') to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

''(2) shall submit the plan to Congress, not later than 180 days after the date of enactment of this section.

''(b) PLAN REQUIREMENTS.—The plan shall include—

''(1) a description of the life cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

''(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

''(3) a strategy for installation of life cycle cost-effective energy and water conservation measures;

''(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

''(5) information packages and 'how-to' guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

''(c) ANNUAL REPORT.—The Architect shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

''(1) energy expenditures and savings estimates for each facility;

''(2) energy management and conservation projects; and

''(3) future priorities to ensure compliance with this section.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the National Energy Conservation Policy Act is amended by adding at the end of the items relating to part 3 of title V the following new item:

''Sec. 552. Energy and water savings measures in congressional buildings.''.

(c) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

(d) ENERGY INFRASTRUCTURE.—The Architect of the Capitol, building on the Master Plan Study completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capital Complex to determine how the infrastructure could be augmented to become more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Architect of the Capitol to carry out subsection (d), not more than $2,000,000 for fiscal years after the enactment of this Act.

**SEC. 11002. ENERGY MANAGEMENT REQUIREMENTS.**

(a) ENERGY REDUCTION GOALS.—

(1) AMENDMENT.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking ''its Federal buildings so that'' and all that follows through the end and inserting ''the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2004 through 2013 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2001, by the percentage specified in the following table:

| ''Fiscal Year | Percentage reduction |
|---|---|
| 2004 | 2 |
| 2005 | 4 |
| 2006 | 6 |
| 2007 | 8 |
| 2008 | 10 |
| 2009 | 12 |
| 2010 | 14 |
| 2011 | 16 |
| 2012 | 18 |
| 2013 | 20.''. |

(2) REPORTING BASELINE.—The energy reduction goals and baseline established in paragraph (1) of section 543(a) of the National Energy Conservation Policy Act, as amended by paragraph (1) of this subsection, supersede all previous goals and baselines under such paragraph, and related reporting requirements.

(b) REVIEW AND REVISION OF ENERGY PERFORMANCE REQUIREMENT.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is further amended by adding at the end the following:

''(3) Not later than December 31, 2012, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for fiscal years 2014 through 2023.''.

(c) EXCLUSIONS.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended by striking ''An agency may exclude'' and all that follows through the end and inserting ''(A) An agency may exclude, from the energy performance requirement for a fiscal year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

''(i) compliance with those requirements would be impracticable;

''(ii) the agency has completed and submitted all federally required energy management reports;

''(iii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive Orders, and other Federal law; and

''(iv) the agency has implemented all practicable, life cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

''(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

''(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings; or

''(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.''.

(d) REVIEW BY SECRETARY.—Section 543(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(2)) is amended—

(1) by striking ''impracticability standards'' and inserting ''standards for exclusion''; and

(2) by striking ''a finding of impracticability'' and inserting ''the exclusion''.

(e) CRITERIA.—Section 543(c) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)) is further amended by adding at the end the following:

''(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).''.

(f) RETENTION OF ENERGY SAVINGS.—Section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

''(e) RETENTION OF ENERGY SAVINGS.—An agency may retain any funds appropriated to that agency for energy expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings. Except as otherwise provided by law, such funds may be used only for energy efficiency or unconventional and renewable energy resources projects.''.

(g) REPORTS.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in the subsection heading, by inserting ''THE PRESIDENT AND'' before ''CONGRESS''; and

(2) by inserting ''President and'' before ''Congress''.

(h) CONFORMING AMENDMENT.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking ''the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)).'' and inserting ''each of the energy reduction goals established under section 543(a).''.

**SEC. 11003. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.**

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

''(e) METERING OF ENERGY USE.—

''(1) DEADLINE.—By October 1, 2010, in accordance with guidelines established by the Secretary under paragraph (2), all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered or submetered. Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility energy managers.

''(2) GUIDELINES.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Services Administration, representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, national laboratories, universities, and Federal facility energy managers, shall establish guidelines for agencies to carry out paragraph (1).

''(B) REQUIREMENTS FOR GUIDELINES.—The guidelines shall—

''(i) take into consideration—

''(I) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;

''(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

''(III) the measurement and verification protocols of the Department of Energy;

''(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

''(iii) establish priorities for types and locations of buildings to be metered and submetered based on cost-effectiveness and a schedule of one or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

''(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimis quantity of energy use of a Federal building, industrial process, or structure.

''(3) PLAN.—No later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including (A) how the agency will designate personnel primarily responsible for achieving the requirements and (B) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.''.

**SEC. 11004. FEDERAL BUILDING PERFORMANCE STANDARDS.**

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A), by striking ''CABO Model Energy Code, 1992'' and inserting ''the 2000 International Energy Conservation Code''; and

(2) by adding at the end the following:

''(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy shall establish, by rule, revised Federal building energy efficiency performance standards that require that, if cost-effective, for new Federal buildings—

''(i) such buildings be designed so as to achieve energy consumption levels at least 30 percent below those of the most recent ASHRAE Standard 90.1 or the most recent version of the International Energy Conservation Code, as appropriate; and

''(ii) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings.

''(B) ADDITIONAL REVISIONS.—Not later than 1 year after the date of approval of amendments to ASHRAE Standard 90.1 or the 2000 International Energy Conservation Code, the Secretary of Energy shall determine, based on the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the amendments.

''(C) STATEMENT ON COMPLIANCE OF NEW BUILDINGS.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

''(i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

''(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph.''.

**SEC. 11005. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.**

(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

**''SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.**

''(a) DEFINITIONS.—In this section:

''(1) ENERGY STAR PRODUCT.—The term 'Energy Star product' means a product that is rated for energy efficiency under an Energy Star program.

''(2) ENERGY STAR PROGRAM.—The term 'Energy Star program' means the program established by section 324A of the Energy Policy and Conservation Act.

''(3) EXECUTIVE AGENCY.—The term 'executive agency' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

''(4) FEMP DESIGNATED PRODUCT.—The term 'FEMP designated product' means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

''(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

''(1) REQUIREMENT.—To meet the requirements of an executive agency for an energy consuming product, the head of the executive agency shall, except as provided in paragraph (2), procure—

''(A) an Energy Star product; or

''(B) a FEMP designated product.

''(2) EXCEPTIONS.—The head of an executive agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the executive agency finds in writing that—

''(A) an Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into account; or

''(B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the executive agency.

''(3) PROCUREMENT PLANNING.—The head of an executive agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

''(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program, except in cases where the agency ordering a product specifies in writing that no Energy Star product or FEMP designated product is available to meet the buyer's functional requirements, or that no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

''(d) DESIGNATION OF ELECTRIC MOTORS.—In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard within 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

''(e) REGULATIONS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue guidelines to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 101(b) of the National Energy Conservation Policy Act (42 U.S.C. 8201 note), as amended by section 11001(b) of this division, is further amended by inserting after the item relating to section 552 the following:

''Sec. 553. Federal procurement of energy efficient products.''.

**SEC. 11006. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

(a) PERMANENT EXTENSION.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(b) REPLACEMENT FACILITIES.—Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following new paragraph:

''(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced, established through a methodology set forth in the contract.

''(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in that subparagraph.''.

(c) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means—

''(A) a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

''(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(ii) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

''(iii) the increased efficient use of existing water sources; or

''(B) in the case of a replacement building or facility described in section 801(a)(3), a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, that would otherwise be utilized in one or more existing federally owned buildings or other federally owned facilities by reason of the construction and operation of the replacement building or facility.''.

(d) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for—

''(A) the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations; or

''(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.

Such contracts shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 3301), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 3307).''.

(e) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

''(4) The term 'energy or water conservation measure' means—

''(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

''(B) a water conservation measure that improves water efficiency, is life cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.''.

(f) REVIEW.—Within 180 days after the date of the enactment of this section, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

**SEC. 11007. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.**

(a) VOLUNTARY AGREEMENTS.—The Secretary of Energy shall enter into voluntary agreements with one or more persons in industrial sectors that consume significant amounts of primary energy per unit of physical output to reduce the energy intensity of their production activities.

(b) GOAL.—Voluntary agreements under this section shall have a goal of reducing energy intensity by not less than 2.5 percent each year from 2004 through 2014.

(c) RECOGNITION.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency and other appropriate Federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.

(d) DEFINITION.—In this section, the term ''energy intensity'' means the primary energy consumed per unit of physical output in an industrial process.

(e) TECHNICAL ASSISTANCE.—An entity that enters into an agreement under this section and continues to make a good faith effort to achieve the energy efficiency goals specified in the agreement shall be eligible to receive from the Secretary a grant or technical assistance as appropriate to assist in the achievement of those goals.

(f) REPORT.—Not later than June 30, 2010 and June 30, 2014, the Secretary shall submit to Congress a report that evaluates the success of the voluntary agreements, with independent verification of a sample of the energy savings estimates provided by participating firms.

**SEC. 11008. FEDERAL AGENCY PARTICIPATION IN DEMAND REDUCTION PROGRAMS.**

Section 546(c) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended by adding at the end of the following new paragraph:

''(6) Federal agencies are encouraged to participate in State or regional demand side reduction programs. The availability of such programs, including measures employing onsite generation, and the savings resulting from such participation, should be included in the evaluation of energy options for Federal facilities.''.

**SEC. 11009. ADVANCED BUILDING EFFICIENCY TESTBED.**

(a) ESTABLISHMENT.—The Secretary of Energy, in consultation with the Administrator of the General Services Administration, shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate efficiency concepts for government and industry buildings, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health as well as flexibility and technological change to improve environmental sustainability. Such program shall complement and not duplicate existing national programs.

(b) PARTICIPANTS.—The program established under subsection (a) shall be led by a university with the ability to combine the expertise from numerous academic fields including, at a minimum, intelligent workplaces and advanced building systems and engineering, electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $6,000,000 for each of the fiscal years 2004 through 2006, to remain available until expended. For any fiscal year in which funds are expended under this section, the Secretary shall provide one-third of the total amount to the lead university described in subsection (b), and provide the remaining two-thirds to the other participants referred to in subsection (b) on an equal basis.

**SEC. 11010. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.**

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following new section:

''INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

''SEC. 6005. (a) DEFINITIONS.—In this section:

''(1) AGENCY HEAD.—The term 'agency head' means—

''(A) the Secretary of Transportation; and

''(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

''(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

''(A) involves the procurement of cement or concrete; and

''(B) is carried out in whole or in part using Federal funds.

''(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

''(A) ground granulated blast furnace slag;

''(B) coal combustion fly ash; and

''(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

''(b) IMPLEMENTATION OF REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

''(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

''(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

''(c) FULL IMPLEMENTATION STUDY.—

''(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

''(2) MATTERS TO BE ADDRESSED.—The study shall—

''(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

''(B) identify all barriers in procurement requirements to fuller realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

''(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

''(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

''(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

''(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations, Committee on Energy and Commerce, and Committee on Transportation and Infrastructure of the House of Representatives a report on the study.

''(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, within 1 year of the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

''(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

''(2) eliminate barriers identified under subsection (c).

''(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following new item:



## Subtitle B—Energy Assistance and State Programs

### SEC. 11021. LIHEAP AND WEATHERIZATION ASSISTANCE.

(a) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking ''each of fiscal years 2002 through 2004'' and inserting ''each of fiscal years 2002 and 2003, and $3,400,000,000 for each of fiscal years 2004 through 2006''.

(b) WEATHERIZATION.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$325,000,000 for fiscal year 2004, $400,000,000 for fiscal year 2005, and $500,000,000 for fiscal year 2006''.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to the Congress a report on how the Low-Income Home Energy Assistance Program could be used more effectively to prevent loss of life from extreme temperatures. In preparing such report, the Secretary shall consult with appropriate officials in all 50 States and the District of Columbia.

### SEC. 11022. STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

''(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.''.

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

''STATE ENERGY EFFICIENCY GOALS

''SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2003 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$100,000,000 for each of the fiscal years 2004 and 2005 and $125,000,000 for fiscal year 2006''.

### SEC. 11023. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term ''eligible State'' means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term ''Energy Star program'' means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term ''residential Energy Star product'' means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) STATE ENERGY OFFICE.—The term ''State energy office'' means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) STATE PROGRAM.—The term ''State program'' means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (f) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of the fiscal years 2004 through 2008.

### SEC. 11024. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary of Energy may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities—

(1) through construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) through renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline energy use in such buildings prior to renovation, assuming a 3-year, weather-normalized average for calculating such baseline.

(b) ADMINISTRATION.—State energy offices receiving grants under this section shall—

(1) maintain such records and evidence of compliance as the Secretary may require; and

(2) develop and distribute information and materials and conduct programs to provide technical services and assistance to encourage planning, financing, and design of energy efficient public buildings by units of local government.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy such sums as may be necessary for each of fiscal years 2004 through 2013. Not more than 30 percent of appropriated funds shall be used for administration.

**SEC. 11025. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.**

(a) GRANTS.—The Secretary of Energy is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency, identify and develop alternative renewable and distributed energy supplies, and increase energy conservation in low income rural and urban communities.

(b) PURPOSE OF GRANTS.—The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative renewable and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) DEFINITION.—For purposes of this section, the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary of Energy $20,000,000 for fiscal year 2004 and each fiscal year thereafter through fiscal year 2006.

## Subtitle C—Energy Efficient Products

**SEC. 11041. ENERGY STAR PROGRAM.**

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting the following after section 324:

**''SEC. 324A. ENERGY STAR PROGRAM.**

''There is established at the Department of Energy and the Environmental Protection Agency a program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through labeling of and other forms of communication about products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. The Administrator and the Secretary shall—

''(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

''(2) work to enhance public awareness of the Energy Star label, including special outreach to small businesses;

''(3) preserve the integrity of the Energy Star label; and

''(4) solicit the comments of interested parties in establishing a new Energy Star product category or in revising a product category, and upon adoption of a new or revised product category provide an explanation of the decision that responds to significant public comments.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324 the following new item:

''Sec. 324A. Energy Star program.''.

**SEC. 11042. CONSUMER EDUCATION ON ENERGY EFFICIENCY BENEFITS OF AIR CONDITIONING, HEATING, AND VENTILATION MAINTENANCE.**

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

''(c) HVAC MAINTENANCE.—(1) For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems.

''(2) The Secretary shall carry out the program in cooperation with the Administrator of the Environmental Protection Agency and such other entities as the Secretary considers appropriate, including industry trade associations, industry members, and energy efficiency organizations.

''(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the existing Energy Star for Small Business Program, to assist small business to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator shall make the program information available directly to small businesses and through other Federal agencies, including the Federal Emergency Management Agency, and the Department of Agriculture.''.

**SEC. 11043. ADDITIONAL DEFINITIONS.**

Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding at the end the following:

''(32) The term 'battery charger' means a device that charges batteries for consumer products.

''(33) The term 'commercial refrigerator, freezer and refrigerator-freezer' means a refrigerator, freezer or refrigerator-freezer that—

''(A) is not a consumer product regulated under this Act; and

''(B) incorporates most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.

''(34) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into either DC current or lower-voltage AC current to operate a consumer product.

''(35) The term 'illuminated exit sign' means a sign that—

''(A) is designed to be permanently fixed in place to identify an exit; and

''(B) consists of—

''(i) an electrically powered integral light source that illuminates the legend 'EXIT' and any directional indicators; and

''(ii) provides contrast between the legend, any directional indicators, and the background.

''(36)(A) Except as provided in subparagraph (B), the term 'low-voltage dry-type transformer' means a transformer that—

''(i) has an input voltage of 600 volts or less;

''(ii) is air-cooled;

''(iii) does not use oil as a coolant; and

''(iv) is rated for operation at a frequency of 60 Hertz.

''(B) The term 'low-voltage dry-type transformer' does not include—

''(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap;

''(ii) transformers that are designed to be used in a special purpose application, such as transformers commonly known as drive transformers, rectifier transformers, autotransformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers; or

''(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because the transformer is designed for a special application and the application of standards to the transformer would not result in significant energy savings.

''(37) The term 'standby mode' means the lowest amount of electric power used by a household appliance when not performing its active functions, as defined on an individual product basis by the Secretary.

''(38) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.

''(39) The term 'transformer' means a device consisting of two or more coils of insulated wire that transfers alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

''(40) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space, except that such term does not include a warm air furnace.

''(41) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation, that communicates movement messages to drivers through red, amber, and green colors.''.

**SEC. 11044. ADDITIONAL TEST PROCEDURES.**

(a) EXIT SIGNS.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended by adding at the end the following:

''(9) Test procedures for illuminated exit signs shall be based on the test method used under Version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

''(10) Test procedures for low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998). The Secretary may review and revise this test procedure based on future revisions to such standard test method.

''(11) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.''.

(b) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is further amended by adding at the end the following:

''(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—The Secretary shall within 24 months after the date of enactment of this subsection prescribe testing requirements for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, commercial unit heaters, and commercial refrigerators, freezers and refrigerator-freezers. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.''.

**SEC. 11045. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.**

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

''(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION.—

''(1) INITIAL RULEMAKING.—(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions of standby mode and test procedures for the standby mode power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing test procedures used for measuring energy consumption in standby mode and assess the current and projected future market for battery chargers and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards. Prior to the end of this time period, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for standby mode energy use for these products.

''(B) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether energy conservation standards shall be promulgated for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at the lowest level of standby energy use that—

''(i) meets the criteria of subsections (o), (p), (q), (r), (s) and (t); and

''(ii) will result in significant overall annual energy savings, considering both standby mode and other operating modes.

''(2) DESIGNATION OF ADDITIONAL COVERED PRODUCTS.—(A) Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish for public comment and public hearing a notice to determine whether any noncovered products should be designated as covered products for the purpose of instituting a rulemaking under this section to determine whether an energy conservation standard restricting standby mode energy consumption, should be promulgated; except that any restriction on standby mode energy consumption shall be limited to major sources of such consumption.

''(B) In making the determinations pursuant to subparagraph (A) of whether to designate new covered products and institute rulemakings, the Secretary shall, among other relevant factors and in addition to the criteria in section 322(b), consider—

''(i) standby mode power consumption compared to overall product energy consumption; and

''(ii) the priority and energy savings potential of standards which may be promulgated under this subsection compared to other required rulemakings under this section and the available resources of the Department to conduct such rulemakings.

''(C) Not later than 1 year after the date of enactment of this subsection, the Secretary shall issue a determination of any new covered products for which he intends to institute rulemakings on standby mode pursuant to this section and he shall state the dates by which he intends to initiate those rulemakings.

''(3) REVIEW OF STANDBY ENERGY USE IN COVERED PRODUCTS.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to this section should be revised, the Secretary shall consider for covered products which are major sources of standby mode energy consumption whether to incorporate standby mode into such test procedures and energy conservation standards, taking into account, among other relevant factors, the criteria for non-covered products in subparagraph (B) of paragraph (2) of this subsection.

''(4) RULEMAKING FOR STANDBY MODE.—(A) Any rulemaking instituted under this subsection or for covered products under this section which restricts standby mode power consumption shall be subject to the criteria and procedures for issuing energy conservation standards set forth in this section and the criteria set forth in subparagraph (B) of paragraph (2) of this subsection.

''(B) No standard can be proposed for new covered products or covered products in a standby mode unless the Secretary has promulgated applicable test procedures for each product pursuant to section 323.

''(C) The provisions of section 327 shall apply to new covered products which are subject to the rulemakings for standby mode after a final rule has been issued.

''(5) EFFECTIVE DATE.—Any standard promulgated under this subsection shall be applicable to products manufactured or imported 3 years after the date of promulgation.

''(6) VOLUNTARY PROGRAMS TO REDUCE STANDBY MODE ENERGY USE.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 324A (relating to Energy Star Programs) and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

''(v) SUSPENDED CEILING FANS, VENDING MACHINES, UNIT HEATERS, AND COMMERCIAL REFRIGERATORS, FREEZERS AND REFRIGERATOR-FREEZERS.—The Secretary shall within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, unit heaters, and commercial refrigerators, freezers and refrigerator-freezers. In establishing standards under this subsection, the Secretary shall use the criteria and procedures contained in subsections (l) and (m). Any standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing such standard.

''(w) ILLUMINATED EXIT SIGNS.—Illuminated exit signs manufactured on or after January 1, 2005 shall meet the Version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency

''(x) TORCHIERES.—Torchieres manufactured on or after January 1, 2005—

''(1) shall consume not more than 190 watts of power; and

''(2) shall not be capable of operating with lamps that total more than 190 watts.

''(y) LOW VOLTAGE DRY-TYPE TRANSFORMERS.—The efficiency of low voltage dry-type transformers manufactured on or after January 1, 2005 shall be the Class I Efficiency Levels for low voltage dry-type transformers specified in Table 4–2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP–1–1996).

''(z) TRAFFIC SIGNAL MODULES.—Traffic signal modules manufactured on or after January 1, 2006 shall meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this paragraph, and shall be installed with compatible, electrically-connected signal control interface devices and conflict monitoring systems.

''(aa) EFFECTIVE DATE OF SECTION 327.—The provisions of section 327 shall apply to products for which standards are set in subsections (v) through (z) of this section after the effective date for such standards.''.

**SEC. 11046. ENERGY LABELING.**

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Paragraph (2) of section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

''(F) Not later than 3 months after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the labeling rules that would improve the effectiveness of consumer product labels. Such rulemaking shall be completed within 2 years after the date of enactment of this subparagraph.''.

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is further amended by adding at the end the following:

''(5) The Secretary or the Commission, as appropriate, may for covered products referred to in subsections (u) through (z) of section 325, prescribe, by rule, pursuant to this section, labeling requirements for such products after a test procedure has been set pursuant to section 323.''.

**SEC. 11047. STUDY OF ENERGY EFFICIENCY STANDARDS.**

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within 1 year of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to the Congress.

## TITLE II—OIL AND GAS

### Subtitle A—Alaska Natural Gas Pipeline

**SEC. 12001. SHORT TITLE.**

This subtitle may be cited as the ''Alaska Natural Gas Pipeline Act of 2003''.

**SEC. 12002. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) Construction of a natural gas pipeline system from the Alaskan North Slope to United States markets is in the national interest and will enhance national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demand for natural gas.

(2) The Commission issued a conditional certificate of public convenience and necessity for the Alaska natural gas transportation system, which remains in effect.

(b) PURPOSES.—The purposes of this subtitle are as follows:

(1) To provide a statutory framework for the expedited approval, construction, and initial operation of an Alaska natural gas transportation project, as an alternative to the framework provided in the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), which remains in effect.

(2) To establish a process for providing access to such transportation project in order to promote competition in the exploration, development, and production of Alaska natural gas.

(3) To clarify Federal authorities under the Alaska Natural Gas Transportation Act of 1976.

**SEC. 12003. DEFINITIONS.**

In this subtitle, the following definitions apply:

(1) ALASKA NATURAL GAS.—The term ''Alaska natural gas'' means natural gas derived from the area of the State of Alaska lying north of 64 degrees North latitude.

(2) ALASKA NATURAL GAS TRANSPORTATION PROJECT.—The term ''Alaska natural gas transportation project'' means any natural gas pipeline system that carries Alaska natural gas to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under either—

(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.); or

(B) section 12004.

(3) ALASKA NATURAL GAS TRANSPORTATION SYSTEM.—The term ''Alaska natural gas transportation system'' means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 and designated and described in section 2 of the President's decision.

(4) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(5) PRESIDENT'S DECISION.—The term ''President's decision'' means the decision and report to Congress on the Alaska natural gas transportation system issued by the President on September 22, 1977, pursuant to section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719e) and approved by Public Law 95–158 (91 Stat. 1268).

**SEC. 12004. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the provisions of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), the Commission may, pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)), consider and act on an application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project other than the Alaska natural gas transportation system.

(b) ISSUANCE OF CERTIFICATE.—

(1) IN GENERAL.—The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this section if the applicant has satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)).

(2) CONSIDERATIONS.—In considering an application under this section, the Commission shall presume that—

(A) a public need exists to construct and operate the proposed Alaska natural gas transportation project; and

(B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through such project to markets in the contiguous United States.

(c) EXPEDITED APPROVAL PROCESS.—The Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section not more than 60 days after the issuance of the final environmental impact statement for that project pursuant to section 12005.

(d) PROHIBITION ON CERTAIN PIPELINE ROUTE.—No license, permit, lease, right-of-way, authorization, or other approval required under Federal law for the construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees North latitude.

(e) OPEN SEASON.—Except where an expansion is ordered pursuant to section 12006, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations governing the conduct of open seasons for such project. Such procedures shall include the criteria for and timing of any open seasons, be consistent with the purposes set forth in section 12002(b)(2), and, for any open season for capacity beyond the initial capacity, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thompson units. The Commission shall issue such regulations not later than 120 days after the date of enactment of this Act.

(f) PROJECTS IN THE CONTIGUOUS UNITED STATES.—Applications for additional or expanded pipeline facilities that may be required to transport Alaska natural gas from Canada to markets in the contiguous United States may be made pursuant to the Natural Gas Act. To the extent such pipeline facilities include the expansion of any facility constructed pursuant to the Alaska Natural Gas Transportation Act of 1976, the provisions of that Act shall continue to apply.

(g) STUDY OF IN-STATE NEEDS.—The holder of the certificate of public convenience and necessity issued, modified, or amended by the Commission for an Alaska natural gas transportation project shall demonstrate that it has conducted a study of Alaska in-State needs, including tie-in points along the Alaska natural gas transportation project for in-State access.

(h) ALASKA ROYALTY GAS.—The Commission, upon the request of the State of Alaska and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project for the State of Alaska or its designee for the transportation of the State's royalty gas for local consumption needs within the State; except that the rates of existing shippers of subscribed capacity on such project shall not be increased as a result of such access.

(i) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.

**SEC. 12005. ENVIRONMENTAL REVIEWS.**

(a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 12004 shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) DESIGNATION OF LEAD AGENCY.—The Commission shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969, and shall be responsible for preparing the statement required by section 102(2)(c) of that Act (42 U.S.C. 4332(2)(c)) with respect to an Alaska natural gas transportation project under section 12004. The Commission shall prepare a single environmental statement under this section, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the project.

(c) OTHER AGENCIES.—All Federal agencies considering aspects of the construction and operation of an Alaska natural gas transportation project under section 12004 shall cooperate with the Commission, and shall comply with deadlines established by the Commission in the preparation of the statement under this section. The statement prepared under this section shall be used by all such agencies to satisfy their responsibilities under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to such project.

(d) EXPEDITED PROCESS.—The Commission shall issue a draft statement under this section not later than 12 months after the Commission determines the application to be complete and shall issue the final statement not later than 6 months after the Commission issues the draft statement, unless the Commission for good cause finds that additional time is needed.

**SEC. 12006. PIPELINE EXPANSION.**

(a) AUTHORITY.—With respect to any Alaska natural gas transportation project, upon the request of one or more persons and after giving notice and an opportunity for a hearing, the Commission may order the expansion of such project if it determines that such expansion is required by the present and future public convenience and necessity.

(b) REQUIREMENTS.—Before ordering an expansion, the Commission shall—

(1) approve or establish rates for the expansion service that are designed to ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including a reasonable rate of return on investment);

(2) ensure that the rates as established do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers;

(3) find that the proposed shipper will comply with, and the proposed expansion and the

expansion of service will be undertaken and implemented based on, terms and conditions consistent with the then-effective tariff of the Alaska natural gas transportation project;

(4) find that the proposed facilities will not adversely affect the financial or economic viability of the Alaska natural gas transportation project;

(5) find that the proposed facilities will not adversely affect the overall operations of the Alaska natural gas transportation project;

(6) find that the proposed facilities will not diminish the contract rights of existing shippers to previously subscribed certificated capacity;

(7) ensure that all necessary environmental reviews have been completed; and

(8) find that adequate downstream facilities exist or are expected to exist to deliver incremental Alaska natural gas to market.

(c) REQUIREMENT FOR A FIRM TRANSPORTATION AGREEMENT.—Any order of the Commission issued pursuant to this section shall be null and void unless the person or persons requesting the order executes a firm transportation agreement with the Alaska natural gas transportation project within a reasonable period of time as specified in such order.

(d) LIMITATION.—Nothing in this section shall be construed to expand or otherwise affect any authorities of the Commission with respect to any natural gas pipeline located outside the State of Alaska.

(e) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.

**SEC. 12007. FEDERAL COORDINATOR.**

(a) ESTABLISHMENT.—There is established, as an independent office in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) FEDERAL COORDINATOR.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall—

(1) be appointed by the President, by and with the advice of the Senate;

(2) hold office at the pleasure of the President; and

(3) be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314).

(c) DUTIES.—The Federal Coordinator shall be responsible for—

(1) coordinating the expeditious discharge of all activities by Federal agencies with respect to an Alaska natural gas transportation project; and

(2) ensuring the compliance of Federal agencies with the provisions of this subtitle.

(d) REVIEWS AND ACTIONS OF OTHER FEDERAL AGENCIES.—

(1) EXPEDITED REVIEWS AND ACTIONS.—All reviews conducted and actions taken by any Federal officer or agency relating to an Alaska natural gas transportation project authorized under this section shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines set forth in this subtitle.

(2) PROHIBITION ON CERTAIN TERMS AND CONDITIONS.—Except with respect to Commission actions under sections 12004, 12005, and 12006, no Federal officer or agency shall have the authority to include terms and conditions that are permitted, but not required, by law on any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that the terms and conditions would prevent or impair in any significant respect the expeditious construction and operation of the project.

(3) PROHIBITION ON CERTAIN ACTIONS.—Except with respect to Commission actions under sections 12004, 12005, and 12006, unless required by law, no Federal officer or agency shall add to, amend, or abrogate any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that such action would prevent or impair in any significant respect the expeditious construction and operation of the project.

(e) STATE COORDINATION.—The Federal Coordinator shall enter into a Joint Surveillance and Monitoring Agreement, approved by the President and the Governor of Alaska, with the State of Alaska similar to that in effect during construction of the Trans-Alaska Oil Pipeline to monitor the construction of the Alaska natural gas transportation project. The Federal Government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses Federal lands and private lands, and the State government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses State lands.

(f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS AND AUTHORITY.—Upon appointment of the Federal Coordinator by the President, all of the functions and authority of the Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System vested in the Secretary of Energy pursuant to section 3012(b) of Public Law 102–486 (15 U.S.C. 719e(b)), including all functions and authority described and enumerated in the Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33,663), Executive Order No. 12142 of June 21, 1979 (44 Fed. Reg. 36,927), and section 5 of the President's decision, shall be transferred to the Federal Coordinator.

**SEC. 12008. JUDICIAL REVIEW.**

(a) EXCLUSIVE JURISDICTION.—Except for review by the Supreme Court of the United States on writ of certiorari, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction to determine—

(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer under this subtitle;

(2) the constitutionality of any provision of this subtitle, or any decision made or action taken under this subtitle; or

(3) the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 with respect to any action under this subtitle.

(b) DEADLINE FOR FILING CLAIM.—Claims arising under this subtitle may be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest as described in section 12002(a).

(d) AMENDMENT TO ANGTA.—Section 10(c) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719h) is amended by inserting after paragraph (1) the following:

''(2) The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under this section for expedited consideration, taking into account the national interest described in section 2.''.

**SEC. 12009. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.**

(a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from the Alaska natural gas transportation project for delivery to consumers within the State of Alaska shall be deemed to be a local distribution facility within the meaning of section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)), and therefore not subject to the jurisdiction of the Commission.

(b) ADDITIONAL PIPELINES.—Nothing in this subtitle, except as provided in section 12004(d), shall preclude or affect a future gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State of Alaska for consumption within or distribution outside the State of Alaska.

(c) RATE COORDINATION.—Pursuant to the Natural Gas Act, the Commission shall establish rates for the transportation of natural gas on the Alaska natural gas transportation project. In exercising such authority, the Commission, pursuant to section 17(b) of the Natural Gas Act (15 U.S.C. 717p(b)), shall confer with the State of Alaska regarding rates (including rate settlements) applicable to natural gas transported on and delivered from the Alaska natural gas transportation project for use within the State of Alaska.

**SEC. 12010. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.**

(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission not later than 18 months after the date of enactment of this Act, the Secretary of Energy shall conduct a study of alternative approaches to the construction and operation of the project.

(b) SCOPE OF STUDY.—The study shall consider the feasibility of establishing a Government corporation to construct an Alaska natural gas transportation project, and alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the project.

(c) CONSULTATION.—In conducting the study, the Secretary of Energy shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Commanding General of the Corps of Engineers).

(d) REPORT.—If the Secretary of Energy is required to conduct a study under subsection (a), the Secretary shall submit a report containing the results of the study, the Secretary's recommendations, and any proposals for legislation to implement the Secretary's recommendations to Congress.

**SEC. 12011. CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.**

(a) SAVINGS CLAUSE.—Nothing in this subtitle affects any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) or any Presidential findings or waivers issued in accordance with that Act.

(b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET CURRENT PROJECT REQUIREMENTS.—Any Federal officer or agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may add to, amend, or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), so long as such action does not compel a change in the basic nature and general route of the Alaska natural gas transportation system as designated and described in section 2 of the President's decision, or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(c) UPDATED ENVIRONMENTAL REVIEWS.—The Secretary of Energy shall require the sponsor of the Alaska natural gas transportation system to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President's decision.

**SEC. 12012. SENSE OF CONGRESS.**

It is the sense of Congress that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline project to make every effort to use steel that is manufactured or produced in North America and to negotiate a project labor agreement to expedite construction of the pipeline.

**SEC. 12013. PARTICIPATION OF SMALL BUSINESS CONCERNS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline project to maximize the participation of small business concerns in contracts and subcontracts awarded in carrying out the project.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study on the extent to which small business concerns participate in the construction of oil and gas pipelines in the United States.

(2) REPORT.—Not later that 1 year after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report containing the results of the study.

(3) UPDATES.—The Comptroller General shall update the study at least once every 5 years and transmit to Congress a report containing the results of the update.

(4) APPLICABILITY.—After the date of completion of the construction of an Alaska natural gas transportation project, this subsection shall no longer apply.

(c) SMALL BUSINESS CONCERN DEFINED.—In this section, the term ''small business concern'' has the meaning given such term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

**SEC. 12014. ALASKA PIPELINE CONSTRUCTION TRAINING PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Labor (in this section referred to as the ''Secretary'') may make grants to the Alaska Department of Labor and Workforce Development to—

(1) develop a plan to train, through the workforce investment system established in the State of Alaska under the Workforce Investment Act of 1998 (112 Stat. 936 et seq.), adult and dislocated workers, including Alaska Natives, in urban and rural Alaska in the skills required to construct and operate an Alaska gas pipeline system; and

(2) implement the plan developed pursuant to paragraph (1).

(b) REQUIREMENTS FOR PLANNING GRANTS.—The Secretary may make a grant under subsection (a)(1) only if—

(1) the Governor of Alaska certifies in writing to the Secretary that there is a reasonable expectation that construction of an Alaska gas pipeline will commence within 3 years after the date of such certification; and

(2) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (1).

(c) REQUIREMENTS FOR IMPLEMENTATION GRANTS.—The Secretary may make a grant under subsection (a)(2) only if—

(1) the Secretary has approved a plan developed pursuant to subsection (a)(1);

(2) the Governor of Alaska requests the grant funds and certifies in writing to the Secretary that there is a reasonable expectation that the construction of an Alaska gas pipeline system will commence within 2 years after the date of such certification;

(3) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (2) after considering—

(A) the status of necessary State and Federal permits;

(B) the availability of financing for the pipeline project; and

(C) other relevant factors and circumstances.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Labor such sums as may be necessary, but not to exceed $20,000,000, to carry out this section.

## Subtitle B—Strategic Petroleum Reserve

**SEC. 12101. FULL CAPACITY OF STRATEGIC PETROLEUM RESERVE.**

The President shall—

(1) fill the Strategic Petroleum Reserve established pursuant to part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) to full capacity as soon as practicable;

(2) acquire petroleum for the Strategic Petroleum Reserve by the most practicable and cost-effective means, with consideration being given to domestically produced petroleum, including the acquisition of crude oil the United States is entitled to receive in kind as royalties from production on Federal lands; and

(3) ensure that the fill rate minimizes impacts on petroleum markets.

**SEC. 12102. STRATEGIC PETROLEUM RESERVE EXPANSION.**

(a) PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall transmit to the Congress a plan for the expansion of the Strategic Petroleum Reserve to 1,000,000,000 barrels, including—

(1) plans for the elimination of infrastructure impediments to maximum drawdown capability;

(2) a schedule for the completion of all required environmental reviews;

(3) provision for consultation with Federal and State environmental agencies;

(4) a schedule and procedures for site selection; and

(5) anticipated annual budget requests.

(b) CONSTRUCTION OF ADDITIONAL CAPACITY.—The Secretary of Energy shall acquire property and complete construction for the expansion of the Strategic Petroleum Reserve in accordance with the plan transmitted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $1,500,000,000 for carrying out this section, to remain available until expended.

**SEC. 12103. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.**

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting—

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part and part D, to remain available until expended.'';

(2) by striking section 186 (42 U.S.C. 6250e); and

(3) by striking part E (42 U.S.C. 6251; relating to the expiration of title I of the Act).

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by inserting before section 273 (42 U.S.C. 6283) the following:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS'';

(2) by striking section 273(e) (42 U.S.C. 6283(e); relating to the expiration of summer fill and fuel budgeting programs); and

(3) by striking part D (42 U.S.C. 6285; relating to the expiration of title II of the Act).

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by inserting after the items relating to part C of title I the following:

''PART D—NORTHEAST HOME HEATING OIL RESERVE

''Sec. 181. Establishment.
''Sec. 182. Authority.
''Sec. 183. Conditions for release; plan.
''Sec. 184. Northeast Home Heating Oil Reserve Account.
''Sec. 185. Exemptions.'';

(2) by amending the items relating to part C of title II to read as follows:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

''Sec. 273. Summer fill and fuel budgeting programs.''; and

(3) by striking the items relating to part D of title II.

(d) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended by inserting ''(considered as a heating season average)'' after ''mid-October through March''.

## Subtitle C—Hydraulic Fracturing

**SEC. 12201. HYDRAULIC FRACTURING.**

Paragraph (1) of section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) is amended to read as follows:

''(1) The term 'underground injection'—

''(A) means the subsurface emplacement of fluids by well injection; and

''(B) excludes—

''(i) the underground injection of natural gas for purposes of storage; and

''(ii) the underground injection of fluids or propping agents pursuant to hydraulic fracturing operations related to oil or gas production activities.''.

## Subtitle D—Unproven Oil and Natural Gas Reserves Recovery Program

**SEC. 12301. PROGRAM.**

The Secretary shall carry out a program to demonstrate technologies for the recovery of oil and natural gas reserves from reservoirs described in section 12302.

**SEC. 12302. ELIGIBLE RESERVOIRS.**

The program under this subtitle shall only address oil and natural gas reservoirs with 1 or more of the following characteristics:

(1) Complex geology involving rapid changes in the type and quality of the oil reservoir across the reservoir.

(2) Low reservoir pressure.

(3) Unconventional natural gas reservoirs in coalbeds, tight sands, or shales.

**SEC. 12303. FOCUS AREAS.**

The program under this subtitle may focus on areas including coal-bed methane, deep drilling, natural gas production from tight sands, natural gas production from gas shales, innovative production techniques (including horizontal drilling, fracture detection methodologies, and three-dimensional seismic), and enhanced recovery techniques.

**SEC. 12304. LIMITATION ON LOCATION OF ACTIVITIES.**

Activities under this subtitle shall be carried out only—

(1) in—

(A) areas onshore in the United States on public land administered by the Secretary of the Interior available for oil and gas leasing, where consistent with applicable law and land use plans; and

(B) areas onshore in the United States on State or private land, subject to applicable law; and

(2) with the approval of the appropriate Federal or State land management agency or private land owner.

**SEC. 12305. PROGRAM ADMINISTRATION.**

(a) ROLE OF THE SECRETARY.—The Secretary shall have ultimate responsibility for, and oversight of, all aspects of the program under this subtitle.

(b) ROLE OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall contract with a consortium to—

(A) manage awards pursuant to subsection (e)(4);

(B) make recommendations to the Secretary for project solicitations;

(C) disburse funds awarded under subsection (e) as directed by the Secretary in accordance with the annual plan under subsection (d); and

(D) carry out other activities assigned to the program consortium by this section.

(2) LIMITATION.—The Secretary may not assign any activities to the program consortium except as specifically authorized under this section.

(3) CONFLICT OF INTEREST.—(A) The Secretary shall establish procedures—

(i) to ensure that each board member, officer, or employee of the program consortium who is in a decisionmaking capacity under subsection (e)(3) or (4) shall disclose to the Secretary any financial interests in, or financial relationships with, applicants for or recipients of awards under this section, including those of his or her spouse or minor child, unless such relationships or interests would be considered to be remote or inconsequential; and

(ii) to require any board member, officer, or employee with a financial relationship or interest disclosed under clause (i) to recuse himself or herself from any review under subsection (e)(3) or oversight under subsection (e)(4) with respect to such applicant or recipient.

(B) The Secretary may disqualify an application or revoke an award under this section if a board member, officer, or employee has failed to comply with procedures required under subparagraph (A)(ii).

(c) SELECTION OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall select the program consortium through an open, competitive process.

(2) MEMBERS.—The program consortium may include corporations and institutions of higher education. The Secretary shall give preference in the selection of the program consortium to applicants with broad representation from the various major oil and natural gas basins in the United States. After submitting a proposal under paragraph (4), the program consortium may not add members without the consent of the Secretary.

(3) TAX STATUS.—The program consortium shall be an entity that is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986.

(4) SCHEDULE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall solicit proposals for the creation of the program consortium, which must be submitted not less than 180 days after the date of enactment of this Act. The Secretary shall select the program consortium not later than 240 days after such date of enactment.

(5) APPLICATION.—Applicants shall submit a proposal including such information as the Secretary may require. At a minimum, each proposal shall—

(A) list all members of the consortium;

(B) fully describe the structure of the consortium, including any provisions relating to intellectual property; and

(C) describe how the applicant would carry out the activities of the program consortium under this section.

(6) ELIGIBILITY.—To be eligible to be selected as the program consortium, an applicant must be an entity whose members collectively have demonstrated capabilities in planning and managing programs for the production of oil or natural gas.

(7) CRITERION.—The Secretary may consider the amount of the fee an applicant proposes to receive under subsection (f) in selecting a consortium under this section.

(d) ANNUAL PLAN.—

(1) IN GENERAL.—The program under this subtitle shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraph (2).

(2) DEVELOPMENT.—(A) Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the program consortium for each element to be addressed in the plan, including those described in paragraph (4). The Secretary may request that the program consortium submit its recommendations in the form of a draft annual plan.

(B) The Secretary shall submit the recommendations of the program consortium under subparagraph (A) to the Advisory Committee for review, and the Advisory Committee shall provide to the Secretary written comments by a date determined by the Secretary. The Secretary may also solicit comments from any other experts.

(C) The Secretary shall consult regularly with the program consortium throughout the preparation of the annual plan.

(3) PUBLICATION.—The Secretary shall transmit to the Congress and publish in the Federal Register the annual plan, along with any written comments received under paragraph (2)(A) and (B). The annual plan shall be transmitted and published not later than 60 days after the date of enactment of an Act making appropriations for a fiscal year for the program under this subtitle.

(4) CONTENTS.—The annual plan shall describe the ongoing and prospective activities of the program under this subtitle and shall include—

(A) a list of any solicitations for awards that the Secretary plans to issue to carry out activities, including the topics for such work, who would be eligible to apply, selection criteria, and the duration of awards; and

(B) a description of the activities expected of the program consortium to carry out subsection (e)(4).

(e) AWARDS.—

(1) IN GENERAL.—The Secretary shall make awards to carry out activities under the program under this subtitle. The program consortium shall not be eligible to receive such awards, but members of the program consortium may receive such awards.

(2) PROPOSALS.—

(A) SOLICITATION.—The Secretary shall solicit proposals for awards under this subsection in such manner and at such time as the Secretary may prescribe, in consultation with the program consortium.

(B) CONTENTS.—Each proposal submitted shall include the following:

(i) An estimate of the potential unproven reserves in the reservoir, established by a registered petroleum engineer.

(ii) An estimate of the potential for success of the project.

(iii) A detailed project plan.

(iv) A detailed analysis of the costs associated with the project.

(v) A time frame for project completion.

(vi) Evidence that any lienholder on the project will subordinate its interests to the extent necessary to ensure that the Federal government receives its portion of any revenues pursuant to section 12308.

(vii) Such other matters as the Secretary considers appropriate.

(3) REVIEW.—The Secretary shall make awards under this subsection through a competitive process, which shall include a review by individuals selected by the Secretary. Such individuals shall include, for each application, Federal officials, the program consortium, and non-Federal experts who are not board members, officers, or employees of the program consortium or of a member of the program consortium.

(4) OVERSIGHT.—(A) The program consortium shall oversee the implementation of awards under this subsection, consistent with the annual plan under subsection (d), including disbursing funds and monitoring activities carried out under such awards for compliance with the terms and conditions of the awards.

(B) Nothing in subparagraph (A) shall limit the authority or responsibility of the Secretary to oversee awards, or limit the authority of the Secretary to review or revoke awards.

(C) The Secretary shall provide to the program consortium the information necessary for the program consortium to carry out its responsibilities under this paragraph.

(f) FEE.—To compensate the program consortium for carrying out its activities under this section, the Secretary shall provide to the program consortium a fee in an amount not to exceed 7.5 percent of the amounts awarded under subsection (e) for each fiscal year.

(g) DISALLOWED EXPENSES.—No portion of any award shall be used by a recipient for general or administrative expenses of any kind.

(h) AUDIT.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds provided to the program consortium, and funds provided under awards made under subsection (e), have been expended in a manner consistent with the purposes and requirements of this subtitle. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to Congress, along with a plan to remedy any deficiencies cited in the report.

**SEC. 12306. ADVISORY COMMITTEE.**

(a) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an Advisory Committee.

(b) MEMBERSHIP.—The Advisory Committee shall be composed of members appointed by the Secretary and including—

(1) individuals with extensive experience or operational knowledge of oil and natural gas production, including independent oil and gas producers;

(2) individuals broadly representative of oil and natural gas production; and

(3) no individuals who are Federal employees.

(c) DUTIES.—The Advisory Committee shall advise the Secretary on the development and implementation of activities under this subtitle.

(d) COMPENSATION.—A member of the Advisory Committee shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(e) PROHIBITION.—The Advisory Committee shall not make recommendations on funding awards to consortia or for specific projects.

**SEC. 12307. LIMITS ON PARTICIPATION.**

An entity shall be eligible to receive an award under this subtitle only if the Secretary finds—

(1) that the entity's participation in the program under this subtitle would be in the economic interest of the United States;

(2) that the entity is a United States-owned entity organized under the laws of the United States with production levels of less than 1,000 barrels per day of oil equivalent; and

(3) that the entity has demonstrated that nongovernmental third party sources of financing are not available for the proposal project.

**SEC. 12308. PAYMENTS TO FEDERAL GOVERNMENT.**

(a) INITIAL RATE.—Until the amount of a grant under this subtitle has been fully repaid to the Federal Government under this subsection, 95 percent of all revenues derived from increased incremental production attributable to participation in the program under this subtitle shall be paid to the Secretary by the purchaser of such increased production.

(b) RATE AFTER REPAYMENT.—After the Federal Government has been fully repaid under subsection (a), 5 percent of all revenues derived from increased incremental production attributable to participation in the program under this subtitle shall be paid to the Secretary by the purchaser of such increased production.

**SEC. 12309. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary for carrying out this subtitle $100,000,000, to remain available until expended.

**SEC. 12310. PUBLIC AVAILABILITY OF PROJECT RESULTS AND METHODOLOGIES.**

The results of any project undertaken pursuant to this subtitle and the methodologies used to achieve those results shall be made public by the Secretary. The methodologies used shall not be proprietary so that such methodologies may be used for other projects by persons not seeking awards pursuant to this subtitle.

**SEC. 12311. SUNSET.**

The authority provided by this subtitle shall terminate on September 30, 2010.

**SEC. 12312. DEFINITIONS.**

In this subtitle:

(1) PROGRAM CONSORTIUM.—The term ''program consortium'' means the consortium selected under section 12305(c).

(2) REMOTE OR INCONSEQUENTIAL.—The term ''remote or inconsequential'' has the meaning given that term in regulations issued by the Office of Government Ethics under section 208(b)(2) of title 18, United States Code.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

**Subtitle E—Miscellaneous**

**SEC. 12401. APPEALS RELATING TO PIPELINE CONSTRUCTION PROJECTS.**

(a) AGENCY OF RECORD.—Any Federal administrative agency proceeding that is an appeal or review of Federal authority for an interstate natural gas pipeline construction project, including construction of natural gas storage and liquefied natural gas facilities, shall use as its exclusive record for all purposes the record compiled by the Federal Energy Regulatory Commission pursuant to such Commission's proceeding under section 7 of the Natural Gas Act.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that all Federal and State agencies with jurisdiction over interstate natural gas pipeline construction activities should coordinate their proceedings within the time frames established by the Federal Energy Regulatory Commission while it is acting pursuant to section 7 of the Natural Gas Act to determine whether a proposed interstate natural gas pipeline is in the public convenience and necessity.

**SEC. 12402. NATURAL GAS MARKET DATA TRANSPARENCY.**

(a) ESTABLISHMENT OF SYSTEM.—Not later than 180 days after the date of enactment of this Act, the Federal Energy Regulatory Commission shall issue rules authorizing or establishing an electronic information system to provide the Commission and the public with timely access to such information as is necessary or appropriate to facilitate price transparency and participation in natural gas markets. Such system shall provide information about the market price of natural gas sold in interstate commerce.

(b) DATA SUBJECT TO DISCLOSURE.—Rules issued under subsection (a) shall require public availability only of—

(1) aggregate data; and

(2) transaction-specific data that is otherwise required by the Federal Energy Regulatory Commission to be made public.

(c) CIVIL PENALTY.—Any person who violates any provision of a rule issued under subsection (a) shall be subject to a civil penalty of not more than $1,000,000 for each day that such violation continues. Such penalty shall be assessed by the Federal Energy Regulatory Commission, after notice and opportunity for public hearing. In determining the amount of a proposed penalty, the Commission shall take into consideration the seriousness of the violation and the efforts of such person to remedy the violation in a timely manner.

**SEC. 12403. OIL AND GAS EXPLORATION AND PRODUCTION DEFINED.**

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(24) The term 'oil and gas exploration and production' means all field operations necessary for both exploration and production of oil and gas, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such activities may be considered construction activities.''.

**SEC. 12404. COMPLEX WELL TECHNOLOGY TESTING FACILITY.**

The Secretary, in coordination with industry leaders in extended reach drilling technology, shall establish a Complex Well Technology Testing Facility at the Rocky Mountain Oilfield Testing Center to increase the range of extended drilling technology to 50,000 feet, so that more energy resources can be realized with fewer drilling facilities.

**TITLE III—HYDROELECTRIC**

**Subtitle A—Alternative Conditions**

**SEC. 13001. ALTERNATIVE CONDITIONS AND FISHWAYS.**

(a) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after ''adequate protection and utilization of such reservation.'' at the end of the first proviso the following: ''The license applicant shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of any disputed issues of material fact, with respect to such conditions.''.

(b) FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after ''and such fishways as may be prescribed by the Secretary of Commerce.'' the following: ''The license applicant shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of any disputed issues of material fact, with respect to such fishways.''.

(c) ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

**''SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

''(a) ALTERNATIVE CONDITIONS.—(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls (referred to in this subsection as 'the Secretary') deems a condition to such license to be necessary under the first proviso of section 4(e), the license applicant may propose an alternative condition.

''(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the license applicant or otherwise available to the Secretary, that such alternative condition—

''(A) provides for the adequate protection and utilization of the reservation; and

''(B) will either—

''(i) cost less to implement; or

''(ii) result in improved operation of the project works for electricity production,

as compared to the condition initially deemed necessary by the Secretary.

''(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under section 4(e) or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

''(4) Nothing in this section shall prohibit other interested parties from proposing alternative conditions.

''(5) If the Secretary does not accept an applicant's alternative condition under this section, and the Commission finds that the Secretary's condition would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the reservation. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

''(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway. The alternative may include a fishway or an alternative to a fishway.

''(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee or otherwise available to the Secretary, that such alternative—

''(A) will be no less protective of the fish resources than the fishway initially prescribed by the Secretary; and

''(B) will either—

''(i) cost less to implement; or

''(ii) result in improved operation of the project works for electricity production,

as compared to the fishway initially deemed necessary by the Secretary.

''(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

''(4) Nothing in this section shall prohibit other interested parties from proposing alternative prescriptions.

''(5) If the Secretary concerned does not accept an applicant's alternative prescription under this section, and the Commission finds that the Secretary's prescription would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.''.

## Subtitle B—Additional Hydropower

### SEC. 13201. HYDROELECTRIC PRODUCTION INCENTIVES.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified hydroelectric facility during the incentive period, the Secretary of Energy (referred to in this section as the ''Secretary'') shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e) of this section. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) DEFINITIONS.—For purposes of this section:

(1) QUALIFIED HYDROELECTRIC FACILITY.—The term ''qualified hydroelectric facility'' means a turbine or other generating device owned or solely operated by a non-Federal entity which generates hydroelectric energy for sale and which is added to an existing dam or conduit.

(2) EXISTING DAM OR CONDUIT.—The term ''existing dam or conduit'' means any dam or conduit the construction of which was completed before the date of the enactment of this section and which does not require any construction or enlargement of impoundment or diversion structures (other than repair or reconstruction) in connection with the installation of a turbine or other generating device.

(3) CONDUIT.—The term ''conduit'' has the same meaning as when used in section 30(a)(2) of the Federal Power Act.

The terms defined in this subsection shall apply without regard to the hydroelectric kilowatt capacity of the facility concerned, without regard to whether the facility uses a dam owned by a governmental or nongovernmental entity, and without regard to whether the facility begins operation on or after the date of the enactment of this section.

(c) ELIGIBILITY WINDOW.—Payments may be made under this section only for electric energy generated from a qualified hydroelectric facility which begins operation during the period of 10 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle.

(d) INCENTIVE PERIOD.—A qualified hydroelectric facility may receive payments under this section for a period of 10 fiscal years (referred to in this section as the ''incentive period''). Such period shall begin with the fiscal year in which electric energy generated from the facility is first eligible for such payments.

(e) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Payments made by the Secretary under this section to the owner or operator of a qualified hydroelectric facility shall be based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. For any such facility, the amount of such payment shall be 1.8 cents per kilowatt hour (adjusted as provided in paragraph (2)), subject to the availability of appropriations under subsection (g), except that no facility may receive more than $750,000 in one calendar year.

(2) ADJUSTMENTS.—The amount of the payment made to any person under this section as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 2003 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 2003 shall be substituted for calendar year 1979.

(f) SUNSET.—No payment may be made under this section to any qualified hydroelectric facility after the expiration of the period of 20 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle, and no payment may be made under this section to any such facility after a payment has been made with respect to such facility for a period of 10 fiscal years.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section $10,000,000 for each of the fiscal years 2004 through 2013.

### SEC. 13202. HYDROELECTRIC EFFICIENCY IMPROVEMENT.

(a) INCENTIVE PAYMENTS.—The Secretary of Energy shall make incentive payments to the owners or operators of hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least 3 percent.

(b) LIMITATIONS.—Incentive payments under this section shall not exceed 10 percent of the costs of the capital improvement concerned and not more than one payment may be made with respect to improvements at a single facility. No payment in excess of $750,000 may be made with respect to improvements at a single facility.

(c) AUTHORIZATION.—There is authorized to be appropriated to carry out this section not more than $10,000,000 for each of the fiscal years 2004 through 2013.

### SEC. 13203. SMALL HYDROELECTRIC POWER PROJECTS.

Section 408(a)(6) of the Public Utility Regulatory Policies Act of 1978 is amended by striking ''April 20, 1977'' and inserting ''March 4, 2003''.

### SEC. 13204. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of the Interior and Secretary of the Army, shall conduct studies of the cost-effective opportunities to increase hydropower generation at existing federally-owned or operated water regulation, storage, and conveyance facilities. Such studies shall be completed within two years after the date of enactment of this subtitle and transmitted to the Committee on Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. An individual study shall be prepared for each of the Nation's principal river basins. Each such study shall identify and describe with specificity the following matters:

(1) Opportunities to improve the efficiency of hydropower generation at such facilities through, but not limited to, mechanical, structural, or operational changes.

(2) Opportunities to improve the efficiency of the use of water supplied or regulated by Federal projects where such improvement could, in the absence of legal or administrative constraints, make additional water supplies available for hydropower generation or reduce project energy use.

(3) Opportunities to create additional hydropower generating capacity at existing facilities through, but not limited to, the construction of additional generating facilities, the uprating of generators and turbines, and the construction of pumped storage facilities.

(4) Preliminary assessment of the costs and the economic and environmental consequences of such measures.

(b) PREVIOUS STUDIES.—If studies of the type required by subsection (a) have been prepared by any agency of the United States and published within the five years prior to the date of enactment of this subtitle, the Secretary of Energy may choose not to perform new studies and incorporate the information in such studies into the studies required by subsection (a).

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

## TITLE IV—NUCLEAR MATTERS

### Subtitle A—Price-Anderson Act Amendments

**SEC. 14001. SHORT TITLE.**

This subtitle may be cited as the ''Price-Anderson Amendments Act of 2003''.

**SEC. 14002. EXTENSION OF INDEMNIFICATION AUTHORITY.**

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES''; and

(2) by striking ''December 31, 2003'' each place it appears and inserting ''August 1, 2017''.

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking ''December 31, 2004'' and inserting ''August 1, 2017''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2017''.

**SEC. 14003. MAXIMUM ASSESSMENT.**

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in subsection b.(1), in the second proviso of the third sentence—

(A) by striking ''$63,000,000'' and inserting ''$94,000,000''; and

(B) by striking ''$10,000,000 in any 1 year'' and inserting ''$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)''; and

(2) in subsection t.—

(A) by inserting ''total and annual'' after ''amount of the maximum'';

(B) by striking ''the date of the enactment of the Price-Anderson Amendments Act of 1988'' and inserting ''July 1, 2002''; and

(C) by striking ''such date of enactment'' and inserting ''July 1, 2002''.

**SEC. 14004. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

''(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain the financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

''(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''.

(b) CONTRACT AMENDMENTS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (3) and inserting the following:

''(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2003, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.''.

(c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended—

(1) by striking ''the maximum amount of financial protection required under subsection b. or''; and

(2) by striking ''paragraph (3) of subsection d., whichever amount is more'' and inserting ''paragraph (2) of subsection d.''.

**SEC. 14005. INCIDENTS OUTSIDE THE UNITED STATES.**

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Section 170 e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

**SEC. 14006. REPORTS.**

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2013''.

**SEC. 14007. INFLATION ADJUSTMENT.**

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2002, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) that date, in the case of the first adjustment under this paragraph; or

''(B) the previous adjustment under this paragraph.''.

**SEC. 14008. PRICE-ANDERSON TREATMENT OF MODULAR REACTORS.**

Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following new paragraph:

''(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

''(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.''.

**SEC. 14009. APPLICABILITY.**

The amendments made by sections 14003, 14004, and 14005 do not apply to a nuclear incident that occurs before the date of enactment of this Act.

**SEC. 14010. PROHIBITION ON ASSUMPTION BY UNITED STATES GOVERNMENT OF LIABILITY FOR CERTAIN FOREIGN ACCIDENTS.**

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

''u. PROHIBITION ON ASSUMPTION OF LIABILITY FOR CERTAIN FOREIGN ACCIDENTS.—Notwithstanding this section or any other provision of law, no officer of the United States or of any department, agency, or instrumentality of the United States Government may enter into any contract or other arrangement, or into any amendment or modification of a contract or other arrangement, the purpose or effect of which would be to directly or indirectly impose liability on the United States Government, or any department, agency, or instrumentality of the United States Government, or to otherwise directly or indirectly require an indemnity by the United States Government, for nuclear accidents occurring in connection with the design, construction, or operation of a production facility or utilization facility in any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961, section 6(j)(1) of the Export Administration Act of 1979, or section 40(d) of the Arms Export Control Act to have repeatedly provided support for acts of international terrorism).''.

**SEC. 14011. SECURE TRANSFER OF NUCLEAR MATERIALS.**

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201–2210b) is amended by adding at the end the following new section:

''SEC. 170C. SECURE TRANSFER OF NUCLEAR MATERIALS.—

''a. The Nuclear Regulatory Commission shall establish a system to ensure that, with respect to activities by any party pursuant to a license issued under this Act—

''(1) materials described in subsection b., when transferred or received in the United States—

''(A) from a facility licensed by the Nuclear Regulatory Commission;

''(B) from a facility licensed by an agreement State; or

''(C) from a country with whom the United States has an agreement for cooperation under section 123,

are accompanied by a manifest describing the type and amount of materials being transferred;

''(2) each individual transferring or accompanying the transfer of such materials has been subject to a security background check by appropriate Federal entities; and

''(3) such materials are not transferred to or received at a destination other than a facility licensed by the Nuclear Regulatory Commission or an agreement State under this Act or other appropriate Federal facility, or a destination outside the United States in a country with whom the United States has an agreement for cooperation under section 123.

''b. Except as otherwise provided by the Commission by regulation, the materials referred to in subsection a. are byproduct materials, source materials, special nuclear materials, high-level radioactive waste, spent nuclear fuel, transuranic waste, and low-level radioactive waste (as defined in section 2(16) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(16))).''.

(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, and from time to time thereafter as it considers necessary, the Nuclear Regulatory Commission shall issue regulations identifying radioactive materials that, consistent with the protection of public health and safety and the common defense and security, are appropriate exceptions to the requirements of section 170C of the Atomic Energy Act of 1954, as added by subsection (a) of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the issuance of regulations under subsection (b).

(d) EFFECT ON OTHER LAW.—Nothing in this section or the amendment made by this section shall waive, modify, or affect the application of chapter 51 of title 49, United States Code, part A of subtitle V of title 49, United States Code, part B of subtitle VI of title 49, United States Code, and title 23, United States Code.

(e) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 14 of the Atomic

Energy Act of 1954 is amended by adding at the end the following new item:

''Sec. 170C. Secure transfer of nuclear materials.''.

**SEC. 14012. NUCLEAR FACILITY THREATS.**

(a) STUDY.—The President, in consultation with the Nuclear Regulatory Commission and other appropriate Federal, State, and local agencies and private entities, shall conduct a study to identify the types of threats that pose an appreciable risk to the security of the various classes of facilities licensed by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954. Such study shall take into account, but not be limited to—

(1) the events of September 11, 2001;

(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

(3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;

(4) the potential for assistance in an attack from several persons employed at the facility;

(5) the potential for suicide attacks;

(6) the potential for water-based and air-based threats;

(7) the potential use of explosive devices of considerable size and other modern weaponry;

(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

(9) the potential for fires, especially fires of long duration; and

(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals.

(b) SUMMARY AND CLASSIFICATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the Congress and the Nuclear Regulatory Commission a report—

(1) summarizing the types of threats identified under subsection (a); and

(2) classifying each type of threat identified under subsection (a), in accordance with existing laws and regulations, as either—

(A) involving attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person, or otherwise falling under the responsibilities of the Federal Government; or

(B) involving the type of risks that Nuclear Regulatory Commission licensees should be responsible for guarding against.

(c) FEDERAL ACTION REPORT.—Not later than 90 days after the date on which a report is transmitted under subsection (b), the President shall transmit to the Congress a report on actions taken, or to be taken, to address the types of threats identified under subsection (b)(2)(A). Such report may include a classified annex as appropriate.

(d) REGULATIONS.—Not later than 270 days after the date on which a report is transmitted under subsection (b), the Nuclear Regulatory Commission shall issue regulations, including changes to the design basis threat, to ensure that licensees address the threats identified under subsection (b)(2)(B).

(e) PHYSICAL SECURITY PROGRAM.—The Nuclear Regulatory Commission shall establish an operational safeguards response evaluation program that ensures that the physical protection capability and operational safeguards response for sensitive nuclear facilities, as determined by the Commission consistent with the protection of public health and the common defense and security, shall be tested periodically through Commission approved or designed, observed, and evaluated force-on-force exercises to determine whether the ability to defeat the design basis threat is being maintained. For purposes of this subsection, the term ''sensitive nuclear facilities'' includes at a minimum commercial nuclear power plants, including associated spent fuel storage facilities, spent fuel storage pools and dry cask storage at closed reactors, independent spent fuel storage facilities and geologic repository operations areas, category I fuel cycle facilities, and gaseous diffusion plants.

(f) CONTROL OF INFORMATION.—In carrying out this section, the President and the Nuclear Regulatory Commission shall control the dissemination of restricted data, safeguards information, and other classified national security information in a manner so as to ensure the common defense and security, consistent with chapter 12 of the Atomic Energy Act of 1954.

**SEC. 14013. UNREASONABLE RISK CONSULTATION.**

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

''v. UNREASONABLE RISK CONSULTATION.—(1) Before entering into an agreement of indemnification under this section with respect to a utilization facility, the Nuclear Regulatory Commission shall consult with the Assistant to the President for Homeland Security (or any successor official) concerning whether the location of the proposed facility and the design of that type of facility ensure that the facility provides for adequate protection of public health and safety if subject to a terrorist attack.

''(2) Before issuing a license or a license renewal for a sensitive nuclear facility, the Nuclear Regulatory Commission shall consult with the Secretary of Homeland Security or his designee concerning the emergency evacuation plan for the communities living near the sensitive nuclear facility. For purposes of this paragraph, the term 'sensitive nuclear facility' has the meaning given that term in section 14012 of the Energy Policy Act of 2003.''.

**SEC. 14014. FINANCIAL ACCOUNTABILITY.**

(a) AMENDMENT.—Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

''w. FINANCIAL ACCOUNTABILITY.—(1) Notwithstanding subsection d., the Attorney General may bring an action in the appropriate United States district court to recover from a contractor of the Secretary (or subcontractor or supplier of such contractor) amounts paid by the Federal Government under an agreement of indemnification under subsection d. for public liability resulting from conduct which constitutes intentional misconduct of any corporate officer, manager, or superintendent of such contractor (or subcontractor or supplier of such contractor).

''(2) The Attorney General may recover under paragraph (1) an amount not to exceed the amount of the profit derived by the defendant from the contract.

''(3) No amount recovered from any contractor (or subcontractor or supplier of such contractor) under paragraph (1) may be reimbursed directly or indirectly by the Department of Energy.

''(4) Paragraph (1) shall not apply to any nonprofit entity conducting activities under contract for the Secretary.

''(5) No waiver of a defense required under this section shall prevent a defendant from asserting such defense in an action brought under this subsection.

''(6) The Secretary shall, by rule, define the terms 'profit' and 'nonprofit entity' for purposes of this subsection. Such rulemaking shall be completed not later than 180 days after the date of the enactment of this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall not apply to any agreement of indemnification entered into under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) before the date of the enactment of this Act.

**SEC. 14015. CIVIL PENALTIES.**

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NONPROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

''d. Notwithstanding subsection a., a civil penalty for a violation under subsection a. shall not exceed the amount of any discretionary fee paid under the contract under which such violation occurs for any nonprofit contractor, subcontractor, or supplier—

''(1) described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

''(2) identified by the Secretary by rule as appropriate to be treated the same under this subsection as an entity described in paragraph (1), consistent with the purposes of this section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of the enactment of this Act.

(d) RULEMAKING.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Energy shall issue a rule for the implementation of the amendment made by subsection (b).

## Subtitle B—Miscellaneous Matters

**SEC. 14021. LICENSES.**

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended by inserting ''from the authorization to commence operations'' after ''forty years''.

**SEC. 14022. NUCLEAR REGULATORY COMMISSION MEETINGS.**

If a quorum of the Nuclear Regulatory Commission gathers to discuss official Commission business the discussions shall be recorded, and the Commission shall notify the public of such discussions within 15 days after they occur. The Commission shall promptly make a transcript of the recording available to the public on request, except to the extent that public disclosure is exempted or prohibited by law. This section shall not apply to a meeting, within the meaning of that term under section 552b(a)(2) of title 5, United States Code.

**SEC. 14023. NRC TRAINING PROGRAM.**

(a) IN GENERAL.—In order to maintain the human resource investment and infrastructure of the United States in the nuclear sciences, health physics, and engineering fields, in accordance with the statutory authorities of the Commission relating to the civilian nuclear energy program, the Nuclear Regulatory Commission shall carry out a training and fellowship program to address shortages of individuals with critical nuclear safety regulatory skills.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2004 through 2007.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

**SEC. 14024. COST RECOVERY FROM GOVERNMENT AGENCIES.**

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking ''for or is issued'' and all that follows through ''1702'' and inserting

''to the Commission for, or is issued by the Commission, a license or certificate'';

(2) by striking ''483a'' and inserting ''9701''; and

(3) by striking '', of applicants for, or holders of, such licenses or certificates''.

**SEC. 14025. ELIMINATION OF PENSION OFFSET.**

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:

''y. exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has a skill that is critical to the performance of the duties of the Commission.''.

**SEC. 14026. CARRYING OF FIREARMS BY LICENSEE EMPLOYEES.**

Section 161 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(k)) is amended to read as follows:

''k. authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize—

''(1) such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security; and

''(2) such of those employees of persons licensed or certified by the Commission (including employees of contractors of licensees or certificate holders) engaged in the protection of property of (A) facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission, or (B) property of significance to the common defense and security located at facilities owned or operated by a Commission licensee or certificate holder or being transported to or from such facilities;

to carry firearms while in the discharge of their official duties. A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor or of a Commission licensee or certificate holder (or a contractor of a licensee or certificate holder) authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission or of a licensee or certificate holder of the Commission, laws applicable to facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission pursuant to this subsection and property of significance to the common defense and security that is in the custody of a licensee or certificate holder or a contractor of a licensee or certificate holder of the Commission, or any provision of this Act that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary and the Commission, with the approval of the Attorney General, shall issue guidelines to implement this subsection;''.

**SEC. 14027. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.**

Section 229 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended by adding after ''custody of the Commission'' the following: ''or subject to its licensing authority or to certification by the Commission under this Act or any other Act''.

**SEC. 14028. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

Section 236 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended to read as follows:

''a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

''(1) any production facility or utilization facility licensed under this Act;

''(2) any nuclear waste storage, treatment, or disposal facility licensed under this Act;

''(3) any nuclear fuel for a utilization facility licensed under this Act or any spent nuclear fuel from such a facility;

''(4) any uranium enrichment or nuclear fuel fabrication facility licensed or certified by the Nuclear Regulatory Commission; or

''(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fuel fabrication facility subject to licensing or certification under this Act during its construction where the destruction or damage caused or attempted to be caused could affect public health and safety during the operation of the facility,

shall be fined not more than $1,000,000 or imprisoned for up to life in prison without parole, or both.''.

**SEC. 14029. COOPERATIVE RESEARCH AND DEVELOPMENT AND SPECIAL DEMONSTRATION PROJECTS FOR THE URANIUM MINING INDUSTRY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of fiscal years 2004, 2005, and 2006 for—

(1) cooperative, cost-shared agreements between the Department of Energy and domestic uranium producers to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies that may be applied to sites after completion of in situ leaching operations; and

(2) funding for competitively selected demonstration projects with domestic uranium producers relating to—

(A) enhanced production with minimal environmental impacts;

(B) restoration of well fields; and

(C) decommissioning and decontamination activities.

(b) DOMESTIC URANIUM PRODUCER.—For purposes of this section, the term ''domestic uranium producer'' has the meaning given that term in section 1018(4) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except that the term shall not include any producer that has not produced uranium from domestic reserves on or after July 30, 1998, in Colorado, Nebraska, Texas, Utah, or Wyoming.

**SEC. 14030. URANIUM SALES.**

(a) RESTRICTIONS ON INVENTORY SALES.—Section 3112(d) of the USEC Privatization Act (42 U.S.C. 2297h–10(d)) is amended to read as follows:

''(d) INVENTORY SALES.—(1) In addition to the transfers and sales authorized under subsections (b), (c), and (e), the Secretary of Energy or the Secretary of the Army may transfer or sell uranium subject to paragraph (2).

''(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of uranium shall be made under this subsection by the Secretary of Energy or the Secretary of the Army unless—

''(A) the President determines that the material is not necessary for national security needs;

''(B) the price paid to the appropriate Secretary, if the transaction is a sale, will not be less that the fair market value of the material; and

''(C) the sale or transfer to end users is made pursuant to a contract of at least 3 years duration.

''(3) The Secretary of Energy shall not make any transfer or sale of uranium under this subsection that would cause the total amount of uranium transferred or sold pursuant to this subsection that is delivered for consumption by end users to exceed—

''(A) 3 million pounds of $U_3O_8$ equivalent in fiscal year 2004, 2005, 2006, 2007, 2008, or 2009;

''(B) 5 million pounds of $U_3O_8$ equivalent in fiscal year 2010 or 2011;

''(C) 7 million pounds of $U_3O_8$ equivalent in fiscal year 2012; and

''(D) 10 million pounds of $U_3O_8$ equivalent in fiscal year 2013 or any fiscal year thereafter.

''(4) For the purposes of this subsection, the recovery of uranium from uranium bearing materials transferred or sold by the Secretary of Energy or the Secretary of the Army to the domestic uranium industry shall be the preferred method of making uranium available. The recovered uranium shall be counted against the annual maximum deliveries set for in this section, when such uranium is sold to end users.''.

(b) TRANSFERS TO CORPORATION.—Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is further amended by adding at the end the following new subsection:

''(g) TRANSFERS TO CORPORATION.—Notwithstanding subsection (b)(2) and subsection (d)(2), the Secretary may transfer up to 9,550 metric tons of uranium to the Corporation to replace uranium that the Secretary transferred to the Corporation on or about June 30, 1993, April 20, 1998, and May 18, 1998, and that does not meet commercial specifications.''.

(c) SERVICES.—Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is further amended by adding at the end the following new subsection:

''(h) SERVICES.—(1) Notwithstanding any other provision of this section, if the Secretary determines that if the Corporation has failed, or may fail, to perform any obligation under the Agreement between the Department of Energy and the Corporation dated June 17, 2002, and as amended thereafter, which failure could result in termination of the Agreement, the Secretary shall notify the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in such a manner that affords the Committees an opportunity to comment, prior to a determination by the Secretary whether termination, waiver, or modification of the Agreement is required. The Secretary is authorized to take such action as he determines necessary under the Agreement to terminate, waive, or modify provisions of the Agreement to achieve its purposes.

''(2) Notwithstanding any other provision of this section, if the Secretary determines in accordance with Article 2D of the Agreement between the Department of Energy and the Corporation dated June 17, 2002, and as amended thereafter, to transition operation of the Paducah gaseous diffusion plant, the Secretary may provide uranium enrichment services in a manner consistent with Article 2D of such Agreement.''.

(d) REPORT.—Within 3 years after the date of enactment of this Act, the Secretary shall report to the Congress on the implementation of this section. The report shall include a discussion of available excess uranium inventories, all sales or transfers made by the Secretary of Energy or the Secretary of the Army, the impact of such sales or transfers on the domestic uranium industry, the spot market uranium price, and the national security interests of the United States, and any steps taken to remediate any adverse impacts of such sales or transfers.

**SEC. 14031. MEDICAL ISOTOPE PRODUCTION.**

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended—

(1) by redesignating subsection b. as subsection f.;

(2) by inserting after subsection a. the following:

''b. The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a Recipient Country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this Act, the Commission determines that—

''(1) a Recipient Country that supplies an assurance letter to the United States Government in connection with the Commission's consideration of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the application are required to use such highly enriched uranium solely to produce medical isotopes; and

''(2) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a Recipient Country that—

''(A) uses an alternative nuclear reactor fuel; or

''(B) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when such fuel can be used in that reactor.

''c. Applications to the Commission for licenses authorizing the export to a Recipient Country of highly enriched uranium for medical isotope production shall be subject to subsection b., and subsection a. shall not be applicable to such exports.

''d. The Commission is authorized to specify, by rulemaking or decision in connection with an export license application, that a country other than a Recipient Country may receive exports of highly enriched uranium for medical isotope production in accordance with the same criteria established by subsection b. for exports to a Recipient Country, upon the Commission's finding that such additional country is a party to the Treaty on the Nonproliferation of Nuclear Weapons and the Convention on the Physical Protection of Nuclear Material and will receive such highly enriched uranium pursuant to an agreement with the United States concerning peaceful uses of nuclear energy.

''e. The Commission shall review the adequacy of physical protection requirements that are currently applicable to the transportation of highly enriched uranium for medical isotope production. If it determines that additional physical protection measures are necessary, including any limits that the Commission finds are necessary on the quantity of highly enriched uranium contained in a single shipment for medical isotope production, the Commission shall impose such requirements, as license conditions or through other appropriate means.''; and

(3) in subsection f., as so redesignated by paragraph (1) of this section—

(A) by striking ''and'' at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3)(B) and inserting a semicolon; and

(C) by adding at the end the following:

''(4) the term 'medical isotopes' means radioactive isotopes, including Molybdenum 99, Iodine 131, and Xenon 133, that are used to produce radiopharmaceuticals for diagnostic or therapeutic procedures on patients, or in connection with research and development of radiopharmaceuticals;

''(5) the term 'highly enriched uranium for medical isotope production' means highly enriched uranium contained in, or for use in, targets to be irradiated for the sole purpose of producing medical isotopes; –

''(6) the term 'radiopharmaceuticals' means radioactive isotopes containing byproduct material combined with chemical or biological material that are designed to accumulate temporarily in a part of the body, for therapeutic purposes or for enabling the production of a useful image of the appropriate body organ or function for use in diagnosis of medical conditions; and

''(7) the term 'Recipient Country' means Canada, Belgium, France, Germany, and the Netherlands.''.

**SEC. 14032. HIGHLY ENRICHED URANIUM DIVERSION THREAT REPORT.**

Section 307 of the Energy Reorganization Act of 1974 (42 U.S.C. 5877) is amended by adding at the end the following new subsection:

''(d) Not later than 6 months after the date of the enactment of this Act, the Secretary of Energy shall transmit to the Congress a report with recommendations on reducing the threat resulting from the theft or diversion of highly enriched uranium. Such report shall address—

''(1) monitoring of highly enriched uranium supplies at any commercial companies who have access to substantial amounts of highly enriched uranium;

''(2) assistance to companies described in paragraph (1) with security and personnel checks;

''(3) acceleration of the process of blending down excess highly enriched uranium into low-enriched uranium;

''(4) purchasing highly enriched uranium (except for production of medical isotopes);

''(5) paying the cost of shipping highly enriched uranium;

''(6) accelerating the conversion of commercial research reactors and energy reactors to the use of low-enriched uranium fuel where they now use highly enriched uranium fuel; and

''(7) minimizing, and encouraging transparency in, the further enrichment of low-enriched uranium to highly enriched uranium.''.

**SEC. 14033. WHISTLEBLOWER PROTECTION.**

(a) DEFINITION OF EMPLOYER.—Section 211(a)(2) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (C);

(2) in subparagraph (D), by striking ''that is indemnified'' and all that follows through ''12344.'' and inserting ''or the Commission; and''; and

(3) by adding at the end the following new subparagraph:

''(E) the Department of Energy and the Commission.''.

(b) DE NOVO REVIEW.—Subsection (b) of such section 211 is amended by adding at the end the following new paragraph:

''(4) If the Secretary has not issued a final decision within 180 days after the filing of a complaint under paragraph (1), and there is no showing that such delay is due to the bad faith of the claimant, the claimant may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.''.

**SEC. 14034. PREVENTING THE MISUSE OF NUCLEAR MATERIALS AND TECHNOLOGY.**

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:

''SEC. 170D. PREVENTING THE MISUSE OF NUCLEAR MATERIALS AND TECHNOLOGY.—

''a. In order to successfully promote the development of nuclear energy as a safe and reliable source of electrical energy, it is the policy of the United States to prevent any nuclear materials, technology, components, substances, technical information, or related goods or services from being misused or diverted from peaceful nuclear energy purposes.

''b. In order to further advance the policy set forth in subsection a., notwithstanding any other provision of law, no Federal agency shall issue any license, approval, or authorization for the export or reexport, or the transfer or retransfer, either directly or indirectly, to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961, section 6(j)(1) of the Export Administration Act of 1979, or section 40(d) of the Arms Export Control Act to have repeatedly provided support for acts of international terrorism) of—

''(1) any special nuclear material or byproduct material;

''(2) any nuclear production or utilization facilities; or

''(3) any components, technologies, substances, technical information, or related goods or services used (or which could be used) in a nuclear production or utilization facility.

''c. Any license, approval, or authorization described in subsection b. made prior to the date of enactment of this section is hereby revoked.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of such chapter 14 is amended by adding at the end the following item:

''Sec. 170D. Preventing the misuse of nuclear materials and technology.''.

**SEC. 14035. LIMITATION ON LEGAL FEE REIMBURSEMENT.**

The Department of Energy shall not, except as required under a contract entered into before the date of enactment of this Act, reimburse any contractor or subcontractor of the Department for any legal fees or expenses incurred with respect to a complaint subsequent to—

(1) an adverse determination on the merits with respect to such complaint against the contractor or subcontractor by the Director of the Department of Energy's Office of Hearings and Appeals pursuant to section 708 of title 10, Code of Federal Regulations, or by a Department of Labor Administrative Law Judge pursuant to section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851); or

(2) an adverse final judgment by any State or Federal court with respect to such complaint against the contractor or subcontractor for wrongful termination or retaliation due to the making of disclosures protected under chapter 12 of title 5, United States Code, section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851), or any comparable State law,

unless the adverse determination or final judgment is reversed upon further administrative or judicial review.

## TITLE V—VEHICLES AND FUELS

### Subtitle A—Energy Policy Act Amendments

**SEC. 15011. CREDIT FOR SUBSTANTIAL CONTRIBUTION TOWARD NONCOVERED FLEETS.**

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended by adding at the end the following new subsection:

''(e) CREDIT FOR SUBSTANTIAL CONTRIBUTION TOWARD USE OF DEDICATED VEHICLES IN NONCOVERED FLEETS.—

''(1) DEFINITIONS.—In this subsection:

''(A) MEDIUM OR HEAVY DUTY VEHICLE.—The term 'medium or heavy duty vehicle' means a dedicated vehicle that—

''(i) in the case of a medium duty vehicle, has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds; or

''(ii) in the case of a heavy duty vehicle, has a gross vehicle weight rating of more than 14,000 pounds.

''(B) SUBSTANTIAL CONTRIBUTION.—The term 'substantial contribution' means not less than $15,000 in cash or in kind services, as determined by the Secretary.

''(2) ALLOCATION OF CREDITS.—The Secretary shall allocate a credit to a fleet or covered person under this section if the fleet or person makes a substantial contribution toward the acquisition and use of dedicated vehicles or neighborhood electric vehicles by a person that owns, operates, leases, or otherwise controls a fleet that is not covered by this title.

''(3) MULTIPLE CREDITS FOR MEDIUM AND HEAVY DUTY VEHICLES.—The Secretary shall issue 2 full credits to a fleet or covered person under this section if the fleet or person makes a substantial contribution toward the acquisition and use of a medium or heavy duty vehicle.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle or neighborhood electric vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

''(5) LIMITATION.—Except as provided in paragraph (3), no more than 1 credit shall be allocated under this subsection for each vehicle.''.

**SEC. 15012. CREDIT FOR ALTERNATIVE FUEL INFRASTRUCTURE.**

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258), as amended by this division, is further amended by adding at the end the following new subsection:

''(f) CREDIT FOR INVESTMENT IN ALTERNATIVE FUEL INFRASTRUCTURE.—

''(1) DEFINITION.—In this subsection, the term 'qualifying infrastructure' means—

''(A) equipment required to refuel or recharge alternative fueled vehicles;

''(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;

''(C) training programs, educational materials, or other activities necessary to provide information regarding the operation, maintenance, or benefits associated with alternative fueled vehicles; and

''(D) such other activities the Secretary considers to constitute an appropriate expenditure in support of the operation, maintenance, or further widespread adoption of or utilization of alternative fueled vehicles.

''(2) ALLOCATION OF CREDITS.—The Secretary shall allocate a credit to a fleet or covered person under this section for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

''(3) AMOUNT.—For the purposes of credits under this subsection—

''(A) 1 credit shall be equal to a minimum investment of $25,000 in cash or in kind services, as determined by the Secretary; and

''(B) except in the case of a Federal or State fleet, no part of the investment may be provided by Federal or State funds.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.''.

**SEC. 15013. ALTERNATIVE FUELED VEHICLE REPORT.**

(a) DEFINITIONS.—In this section:

(1) ALTERNATIVE FUEL.—The term ''alternative fuel'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(2) ALTERNATIVE FUELED VEHICLE.—The term ''alternative fueled vehicle'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(3) LIGHT DUTY MOTOR VEHICLE.—The term ''light duty motor vehicle'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the effect that titles III, IV, and V of the Energy Policy Act of 1992 have had on the development of alternative fueled vehicle technology, the availability of alternative fueled vehicles in the market, the cost of light duty motor vehicles that are alternative fueled vehicles, and the availability, cost, and use of alternative fuels and biodiesel. Such report shall include any recommendations of the Secretary for legislation concerning the alternative fueled vehicle requirements under the Energy Policy Act of 1992, and shall examine, discuss, and determine the following:

(1) The number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles.

(2) The extent to which fleets subject to alternative fueled vehicle acquisition requirements have met those requirements through the use of fuel mixtures that contain at least 20 percent biodiesel pursuant to section 312 of the Energy Policy Act of 1992 (42 U.S.C. 13220).

(3) The amount of alternative fuel used in alternative fueled vehicles acquired by fleets required to acquire alternative fueled vehicles under the Energy Policy Act of 1992.

(4) The amount of petroleum displaced by the use of alternative fueled vehicles acquired by fleets or covered persons.

(5) The cost of compliance with vehicle acquisition requirements under the Energy Policy Act of 1992, and the benefits of using such fuel and vehicles.

(6) Projections of the amount of biodiesel, the number of alternative fueled vehicles, and the amount of alternative fuel that will be used over the next decade by fleets required to acquire alternative fueled vehicles under the Energy Policy Act of 1992.

(7) The existence of any obstacles to increased use of alternative fuel and biodiesel in vehicles acquired or maintained by fleets required to acquire alternative fueled vehicles under the Energy Policy Act of 1992, and the benefits of using such fuel and vehicles.

**SEC. 15014. ALLOCATION OF INCREMENTAL COSTS.**

Section 303(c) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c)) is amended by striking ''may'' and inserting ''shall''.

### Subtitle B—Advanced Vehicles

**SEC. 15021. DEFINITIONS.**

For the purposes of this subtitle, the following definitions apply:

(1) ALTERNATIVE FUELED VEHICLE..—The term ''alternative fueled vehicle'' means a vehicle propelled solely on an alternative fuel as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211), except the term does not include any vehicle that the Secretary determines, by rule, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) FUEL CELL VEHICLE.—The term ''fuel cell vehicle'' means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrocarbon fuel. Such fuel cell system may or may not include the use of auxiliary energy storage systems to enhance vehicle performance.

(3) HYBRID VEHICLE.—The term ''hybrid vehicle'' means a medium or heavy duty vehicle propelled by an internal combustion engine or heat engine using any combustible fuel and an onboard rechargeable energy storage device.

(4) NEIGHBORHOOD ELECTRIC VEHICLE.—The term ''neighborhood electric vehicle'' means a motor vehicle capable of traveling at speeds of 25 miles per hour that is—

(A) a low-speed vehicle, as such term is defined in section 571.3(b) of title 49, Code of Federal Regulations;

(B) a zero-emission vehicle, as such term is defined in section 86.1702–99 of title 40, Code of Federal Regulations; and

(C) otherwise lawful to use on local streets.

(5) PILOT PROGRAM.—The term ''pilot program'' means the competitive grant program established under section 15022.

(6) ULTRA-LOW SULFUR DIESEL VEHICLE.—The term ''ultra-low sulfur diesel vehicle'' means a vehicle manufactured in model years 2002 through 2006 powered by a heavy-duty diesel engine that—

(A) is fueled by diesel fuel which contains sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—

(i) for vehicles manufactured in—

(I) model years 2002 and 2003, 3.0 grams per brake horsepower-hour of oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(II) model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; or

(ii) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of ultra-low sulfur diesel vehicles of the same class and application that are commercially available.

**SEC. 15022. PILOT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish a competitive grant pilot program, to be administered through the Clean Cities Program of the Department of Energy, to provide not more than 10 geographically dispersed project grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) GRANT PURPOSES.—Grants under this section may be used for the following purposes:

(1) The acquisition of alternative fueled vehicles or fuel cell vehicles, including—

(A) passenger vehicles including neighborhood electric vehicles; and

(B) motorized two-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles, including—

(A) buses used for public transportation or transportation to and from schools;

(B) delivery vehicles for goods or services; and

(C) ground support vehicles at public airports, including vehicles to carry baggage or push airplanes away from terminal gates.

(3) The acquisition of ultra-low sulfur diesel vehicles.

(4) Infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other support equipment.

(5) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) APPLICATIONS.—

(1) REQUIREMENTS.—The Secretary shall issue requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that applications be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and a registered participant in the Clean Cities Program of the Department of Energy, and shall include—

(A) a description of the projects proposed in the application, including how they meet the requirements of this subtitle;

(B) an estimate of the ridership or degree of use of the projects proposed in the application;

(C) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the projects proposed in the application, and a plan to collect and disseminate environmental data, related to the projects to be funded under the grant, over the life of the projects;

(D) a description of how the projects proposed in the application will be sustainable without Federal assistance after the completion of the term of the grant;

(E) a complete description of the costs of each project proposed in the application, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(F) a description of which costs of the projects proposed in the application will be supported by Federal assistance under this subtitle; and

(G) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the projects, and a commitment by the applicant to use such fuel in carrying out the projects.

(2) PARTNERS.—An applicant under paragraph (1) may carry out projects under the pilot program in partnership with public and private entities.

(d) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall consider each applicant's previous experience with similar projects and shall give priority consideration to applications that—

(1) are most likely to maximize protection of the environment;

(2) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed projects and the greatest likelihood that each project proposed in the application will be maintained or expanded after Federal assistance under this subtitle is completed; and

(3) exceed the minimum requirements of subsection (c)(1)(A).

(e) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than $20,000,000 in Federal assistance under the pilot program to any applicant.

(2) COST SHARING.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) SCHEDULE.—

(1) PUBLICATION.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due within 6 months of the publication of the notice.

(2) SELECTION.—Not later than 6 months after the date by which applications for grants are due, the Secretary shall select by competitive, peer review all applications for projects to be awarded a grant under the pilot program.

(g) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for the acquisition of ultra-low sulfur diesel vehicles.

**SEC. 15023. REPORTS TO CONGRESS.**

(a) INITIAL REPORT.—Not later than 2 months after the date grants are awarded under this subtitle, the Secretary shall transmit to the Congress a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(b) EVALUATION.—Not later than 3 years after the date of the enactment of this Act, and annually thereafter until the pilot program ends, the Secretary shall transmit to the Congress a report containing an evaluation of the effectiveness of the pilot program, including an assessment of the benefits to the environment derived from the projects included in the pilot program as well as an estimate of the potential benefits to the environment to be derived from widespread application of alternative fueled vehicles and ultra-low sulfur diesel vehicles.

**SEC. 15024. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary $200,000,000 to carry out this subtitle, to remain available until expended.

## Subtitle C—Hydrogen Fuel Cell Heavy-Duty Vehicles

**SEC. 15031. DEFINITION.**

For the purposes of this subtitle, the term ''advanced vehicle technologies program'' means the program created pursuant to section 5506 of title 49, United States Code.

**SEC. 15032. FINDINGS.**

The Congress makes the following findings:

(1) The Department of Energy and the Department of Transportation jointly developed the consortium-based advanced vehicle technologies program to develop energy efficient and clean heavy-duty vehicles in 1998.

(2) The majority of clean fuel vehicles in operation today are transit buses.

(3) Hydrogen fuel cell heavy-duty vehicle bus deployments can most appropriately advance hydrogen fuel cell technology development due to centralized refueling, stable duty cycles, and fixed routes.

(4) Hydrogen fuel cell heavy-duty vehicle bus deployments are the most effective manner in which to advance technology developments for public awareness, consumption, and acceptance.

**SEC. 15033. HYDROGEN FUEL CELL BUSES.**

The Secretary of Energy, through the advanced vehicle technologies program, in coordination with the Secretary of Transportation, shall advance the development of fuel cell bus technologies by providing funding for 4 demonstration sites that—

(1) have or will soon have hydrogen infrastructure for fuel cell bus operation; and

(2) are operated by entities with experience in the development of fuel cell bus technologies,

to enable the widespread utilization of fuel cell buses. Such demonstrations shall address the reliability of fuel cell heavy-duty vehicles, expense, infrastructure, containment, storage, safety, training, and other issues.

**SEC. 15034. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of the fiscal years 2004 through 2008 for carrying out this subtitle.

## Subtitle D—Miscellaneous

**SEC. 15041. RAILROAD EFFICIENCY.**

(a) ESTABLISHMENT.—The Secretary shall, in conjunction with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, establish a public-private research partnership involving the Federal Government, the railroad industry, locomotive manufacturers and equipment suppliers, and the research facility owned by the Federal Railroad Administration and operated by contract. The goal of the research partnership shall include developing and demonstrating locomotive technologies that increase fuel economy, reduce emissions, and lower costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the requirements of this section $25,000,000 for fiscal year 2004, $30,000,000 for fiscal year 2005, and $35,000,000 for fiscal year 2006.

**SEC. 15042. MOBILE EMISSION REDUCTIONS TRADING AND CREDITING.**

Within 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall provide a report to the Congress on the Environmental Protection Agency's experience with the trading of mobile source emission reduction credits for use by owners and operators of stationary source emission sources to meet emission offset requirements within a nonattainment area. The report shall describe—

(1) projects approved by the Environmental Protection Agency that include the trading of mobile source emission reduction credits for use by stationary sources in complying with offset requirements, including project and stationary sources location, volumes of emissions offset and traded, a description of the sources of mobile emission reduction credits, and, if available, the cost of the credits;

(2) the significant issues identified by the Environmental Protection Agency in its consideration and approval of trading in such projects;

(3) the requirements for monitoring and assessing the air quality benefits of any approved project;

(4) the statutory authority upon which the Environmental Protection Agency has based approval of such projects;

(5) an evaluation of how the resolution of issues in approved projects could be utilized in other projects; and

(6) any other issues the Environmental Protection Agency considers relevant to the trading and generation of mobile source emission reduction credits for use by stationary sources or for other purposes.

**SEC. 15043. IDLE REDUCTION TECHNOLOGIES.**

(a) DEFINITIONS.—For purposes of this section:

(1) IDLE REDUCTION TECHNOLOGY.—The term ''idle reduction technology'' means a device or system of devices utilized to reduce long-duration idling of a heavy-duty vehicle.

(2) HEAVY-DUTY VEHICLE.—The term ''heavy-duty vehicle'' means a vehicle that has a gross vehicle weight rating greater than 26,000 pounds and is powered by a diesel engine.

(3) LONG-DURATION IDLING.—The term ''long-duration idling'' means the operation of a main drive engine, for a period greater than 15 consecutive minutes, where the main drive engine is not engaged in gear. Such term does not apply to routine stoppages associated with traffic movement or congestion.

(b) STUDIES OF THE BENEFITS OF IDLE REDUCTION TECHNOLOGIES.—

(1) POTENTIAL FUEL SAVINGS.—Not later than 90 days after the date of enactment of this section, the Secretary of Energy shall, in consultation with the Secretary of Transportation, commence a study to analyze the potential fuel savings resulting from use of idle reduction technologies.

(2) RECOGNITION OF BENEFITS OF ADVANCED IDLE REDUCTION TECHNOLOGIES.—Within 90 days after the date of enactment of this section, the Administrator of the Environmental Protection Agency is directed to commence a review of the Agency's mobile source air emissions models used under the Clean Air Act to determine whether such models accurately reflect the emissions resulting from long-duration idling of heavy-duty trucks and other vehicles and engines, and shall update those models as the Administrator deems appropriate. Additionally, within 90 days after the date of enactment of this section, the Administrator shall commence a review as to the appropriate emissions reductions credit that should be allotted under the Clean Air Act for the use of advanced idle reduction technologies, and whether such credits should be subject to an emissions trading system, and shall revise Agency regulations and guidance as the Administrator deems appropriate.

(3) IDLING TECHNOLOGIES.—Not later than 180 days after the date of the enactment of this section, the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall commence a study to analyze where heavy duty and other vehicles stop for long duration idling.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended by adding at the end the following: ''In instances where an idle reduction technology is installed onboard a motor vehicle, the maximum gross vehicle weight limit and the axle weight limit for any motor vehicle equipped with an idling reduction system may be increased by an amount necessary to compensate for the additional weight of the idling reduction system, except that the weight limit increase shall be no greater than 400 pounds.''.

**SEC. 15044. STUDY OF AVIATION FUEL CONSERVATION AND EMISSIONS.**

The Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly commence a study within 60 days after the date of enactment of this Act to identify the impact of aircraft emissions on air quality in nonattainment areas and to identify ways to promote fuel conservation measures for aviation, enhance fuel efficiency, and reduce emissions. As part of this study, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions. Within 180 days after the commencement of the study, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall submit a report to the Committees on Energy and Commerce and Transportation and Infrastructure of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate containing the results of the study and recommendations as to how unnecessary fuel use and emissions affecting air quality may be reduced, without impacting safety and security, increasing individual aircraft noise, and taking into account all aircraft emissions and their relative impact on human health.

**SEC. 15045. DIESEL FUELED VEHICLES.**

(a) DIESEL COMBUSTION AND AFTER TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate efforts to improve diesel combustion and after-treatment technologies for use in diesel fueled motor vehicles.

(b) GOAL.—

(1) COMPLIANCE WITH TIER 2 EMISSION STANDARDS BY 2010.—The Secretary shall carry out subsection (a) with a view to developing and demonstrating diesel technology meeting tier 2 emission standards not later than 2010.

(2) TIER 2 EMISSION STANDARDS DEFINED.—In this subsection, the term ''tier 2 emission standards'' means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on February 10, 2000, under sections 202 and 211 of the Clean Air Act to apply to passenger cars, light trucks, and larger passenger vehicles of model years after the 2003 vehicle model year.

**SEC. 15046. WAIVERS OF ALTERNATIVE FUELED VEHICLE FUELING REQUIREMENT.**

Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

''(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency needs a waiver of such requirement for vehicles in the fleet of the agency in a particular geographic area where—

''(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

''(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified by the head of the agency.

''(ii) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to the Congress on the extent to which the requirements of this subparagraph are being achieved. The report shall include information on annual reductions achieved of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.''.

**SEC. 15047. TOTAL INTEGRATED THERMAL SYSTEMS.**

The Secretary shall—

(1) conduct a study of the benefits of total integrated thermal systems in reducing demand for oil and protecting the environment; and

(2) examine the feasibility of using total integrated thermal systems in Department of Defense and other Federal motor vehicle fleets.

**SEC. 15048. OIL BYPASS FILTRATION TECHNOLOGY.**

The Secretary of Energy and the Administrator of the Environmental Protection Agency shall—

(1) conduct a joint study of the benefits of oil bypass filtration technology in reducing demand for oil and protecting the environment; and

(2) examine the feasibility of using oil bypass filtration technology in Federal motor vehicle fleets.

**SEC. 15049. NATURAL GAS CONDENSATE STUDY.**

Not later than 18 months after the date of enactment of this Act, the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall transmit to the Congress the results of a study to consider fuels derived from natural gas condensate and the appropriate blending of such condensates. The study shall consider—

(1) usage options;

(2) potential volume capacities;

(3) costs;

(4) air emissions;

(5) fuel efficiencies; and

(6) potential use in the Federal fleet program under title III of the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.).

## TITLE VI—ELECTRICITY

### Subtitle A—Transmission Capacity

**SEC. 16011. TRANSMISSION INFRASTRUCTURE IMPROVEMENT RULEMAKING.**

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding the following new section at the end thereof:

**''SEC. 215. TRANSMISSION INFRASTRUCTURE IMPROVEMENT RULEMAKING.**

''(a) RULEMAKING REQUIREMENT.—Within 1 year after the enactment of this section, the Commission shall establish, by rule, incentive-based (including but not limited to performance-based) transmission rate treatments to promote capital investment in the enlargement and improvement of facilities for the transmission of electric energy in interstate commerce as appropriate to—

''(1) promote economically efficient transmission and generation of electricity;

''(2) provide a return on equity that attracts new investment in transmission facilities and reasonably reflects the risks taken by public utilities in restructuring control of transmission assets; and

''(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of such facilities.

The Commission may, from time to time, revise such rule.

''(b) FUNDING OF CERTAIN FACILITIES.—The rule promulgated pursuant to this section shall provide that, upon the request of a regional transmission organization or other Commission-approved transmission organization, new transmission facilities that increase the transfer capability of the transmission system shall be participant funded. In such rules, the Commission shall also provide guidance as to what types of facilities may be participant funded.

''(c) JUST AND REASONABLE RATES.—With respect to any transmission rate filed with the Commission on or after the effective date of the rule promulgated under this section, the Commission shall, in its review of such rate under sections 205 and 206, apply the rules adopted pursuant to this section, including any revisions thereto. Nothing in this section shall be construed to override, weaken, or conflict with the procedural and other requirements of this part, including the requirement of sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.''.

**SEC. 16012. SITING OF INTERSTATE ELECTRICAL TRANSMISSION FACILITIES.**

(a) AMENDMENT OF FEDERAL POWER ACT.—Part II of the Federal Power Act is amended by adding at the end the following:

**''SEC. 216. SITING OF INTERSTATE ELECTRICAL TRANSMISSION FACILITIES.**

''(a) TRANSMISSION STUDIES.—Within one year after the enactment of this section, and every 3 years thereafter, the Secretary of Energy shall conduct a study of electric transmission congestion. After considering alternatives and recommendations from interested parties the Secretary shall issue a report, based on such study, which may designate one or more geographic areas experiencing electric energy transmission congestion as 'interstate congestion areas'.

''(b) CONSTRUCTION PERMIT.—The Commission is authorized, after notice and an opportunity for hearing, to issue permits for the construction or modification of electric transmission facilities in interstate congestion areas designated by the Secretary under subsection (a) if the Commission makes each of the following findings:

''(1) A finding that—

''(A) the State in which the transmission facilities are to be constructed or modified is without authority to approve the siting of the facilities, or

''(B) a State commission or body in the State in which the transmission facilities are to be constructed or modified that has authority to approve the siting of the facilities has withheld approval, conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce and is otherwise not economically feasible, or delayed final approval for more than one year after the filing of an application seeking approval or one year after the designation of the relevant interstate congestion area, whichever is later.

''(2) A finding that the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce.

''(3) A finding that the proposed construction or modification is consistent with the public interest.

''(4) A finding that the proposed construction or modification will significantly reduce transmission congestion in interstate commerce.

The Commission may include in a permit issued under this section conditions consistent with the public interest.

''(c) PERMIT APPLICATIONS.—Permit applications under subsection (b) shall be made in writing to the Commission and verified under oath. The Commission shall issue rules setting forth the form of the application, the information it is to contain, and the manner of service of notice of the permit application upon interested persons.

''(d) COMMENTS.—In any proceeding before the Commission under subsection (b), the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

''(e) RIGHTS-OF-WAY.—In the case of a permit under subsection (b) for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify such transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated.

''(f) STATE LAW.—Nothing in this section shall preclude any person from constructing any transmission facilities pursuant to State law.

''(g) COMPLIANCE WITH OTHER LAWS.—Commission action under this section shall be subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other applicable Federal laws.

''(h) COMPENSATION.—Any exercise of eminent domain authority pursuant to this section shall be considered a taking of private property for which just compensation is due. Just compensation shall be an amount equal to the full fair market value of the property taken on the date of the exercise of eminent domain authority, except that the compensation shall exceed fair market value if necessary to make the landowner whole for decreases in the value of any portion of the land not subject to eminent domain. Any parcel of land acquired by eminent domain under this subsection shall be transferred back to the owner from whom it was acquired (or his heirs or assigns) if the land is not used for power line construction or modification within a reasonable period of time after the acquisition. Property acquired under this subsection may not be used for any heritage area, recreational trail, or park, or for any other purpose (other than power line construction or modification, and for power line operation and maintenance) without the consent of the owner of the parcel from whom the property was acquired (or his heirs or assigns).

''(i) ERCOT.—Nothing in this section shall be construed to authorize any interconnection with any facility owned or operated by an entity referred to in section 212(k)(2)(B).

''(j) RIGHTS OF WAY ON FEDERAL LANDS.—

''(1) LEAD AGENCY.—If an applicant, or prospective applicant, for Federal authorization related to an electricity transmission or distribution facility so requests, the Department of Energy (DOE) shall act as the lead agency for purposes of coordinating all applicable Federal authorization and related environmental review of the facility. The term 'Federal authorization' shall mean any authorization required under Federal law in order to site a transmission or distribution facility, including but not limited to such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal or a State agency. To the maximum extent practicable under applicable Federal law, the Secretary of Energy shall coordinate this Federal authorization and review process with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

''(2) AUTHORITY TO SET DEADLINES.—As lead agency, the Department of Energy, in consultation with other Federal and, as appropriate, with Indian tribes, multi-State entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of and Federal authorization decisions relating to the proposed facility. The Secretary of Energy shall ensure that once an application has been submitted with such data as the Secretary deems necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed within 1 year or, if a requirement of another provision of Federal law makes this impossible, as soon thereafter as is practicable. The Secretary of Energy also shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant within 60 days of when the prospective applicant submits a request for such information concerning—

''(A) the likelihood of approval for a potential facility; and

''(B) key issues of concern to the agencies and public.

''(3) CONSOLIDATED ENVIRONMENTAL REVIEW AND RECORD OF DECISION.—The Secretary of Energy, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law. The document may be an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 if warranted, or such other form of analysis as may be warranted. DOE and other agencies shall streamline the review and permitting of transmission and distribution facilities within corridors designated under section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions as to the corridors. The document under this section may consist of or include an environmental assessment, if allowed by law, or an environmental impact statement, if warranted or required by law, or such other form of analysis as warranted, consistent with any requirement of the National Environmental Policy Act, the Federal Land Policy and Management Act, or any other applicable law. Such document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable laws.

''(4) APPEALS.—In the event that any agency has denied a Federal authorization required for a transmission or distribution facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the Secretary of Energy, who shall, in consultation with the affected agency, review the denial or take action on the pending application. Based on the overall record and in consultation with the affected agency, the Secretary may then either issue the necessary authorization with any appropriate conditions, or deny the application. The Secretary shall issue a decision within 90 days of the filing of the appeal. In making a decision under this paragraph, the Secretary shall comply with all applicable requirements of Federal law, including any requirements of the Endangered Species Act, the Clean Water Act, the National Forest Management Act, the National Environmental Policy Act, and the Federal Land Management and Policy Act.

''(5) CONFORMING REGULATIONS AND MEMORANDA OF AGREEMENT.—Not later than 18 months after the date of enactment of this section, the Secretary of Energy shall issue any regulations necessary to implement the foregoing provisions. Not later than 1 year after the date of enactment of this section, the Secretary and the heads of all relevant Federal departments and non-departmental agencies shall, and interested Indian tribes, multi-State entities, and State agencies may, enter into Memoranda of Agreement to ensure the timely and coordinated review and permitting of electricity transmission and distribution facilities. The head of each Federal department or non-departmental agency with approval authority shall designate a senior responsible official and dedicate sufficient other staff and resources to ensure that the DOE regulations and any Memoranda are fully implemented.

''(6) MISCELLANEOUS.—Each Federal authorization for an electricity transmission or distribution facility shall be issued for a duration, as determined by the Secretary of Energy, commensurate with the anticipated use of the facility and with appropriate authority to manage the right-of-way for reliability and environmental protection. Further, when such authorizations expire, they shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing its importance for public health, safety and economic welfare and as a legitimate use of Federal lands.

''(7) MAINTAINING AND ENHANCING THE TRANSMISSION INFRASTRUCTURE.—In exercising the responsibilities under this section, the Secretary of Energy shall consult regularly with the Federal Energy Regulatory Commission (FERC) and FERC-approved Regional Transmission Organizations and Independent System Operators.

''(k) INTERSTATE COMPACTS.—The consent of Congress is hereby given for States to enter into interstate compacts establishing regional transmission siting agencies to facilitate coordination among the States within such areas for purposes of siting future electric energy transmission facilities and to carry out State electric energy transmission siting responsibilities. The Secretary of Energy may provide technical assistance to regional transmission siting agencies established under this subsection.

''(l) SAVINGS CLAUSE.—Nothing in this section shall be construed to affect any requirement of the environmental laws of the United States, including, but not limited to, the National Environmental Policy Act of 1969. This section shall not apply to any component of the National Wilderness Preservation System, the National Wild and Scenic Rivers System, or the National Park system (including National Monuments therein).''.

(b) FEDERAL CORRIDORS.—The Secretary of the Interior, the Secretary of Energy, the Secretary of Agriculture, and the Chairman of the Council on Environmental Quality shall, within 90 days of the date of enactment of this subsection, submit a joint report to Congress identifying the following:

(1) all existing designated transmission and distribution corridors on Federal land and the status of work related to proposed transmission and distribution corridor designations, the schedule for completing such work, any impediments to completing the work, and steps that Congress could take to expedite the process;

(2) the number of pending applications to locate transmission and distribution facilities on Federal lands, key information relating to each such facility, how long each application has been pending, the schedule for issuing a timely decision as to each facility, and progress in incorporating existing and new such rights-of-way into relevant land use and resource management plans or their equivalent; and

(3) the number of existing transmission and distribution rights-of-way on Federal lands that will come up for renewal within the following 5, 10, and 15 year periods, and a description of how the Secretaries plan to manage such renewals.

**SEC. 16013. TRANSMISSION TECHNOLOGIES.**

The Federal Energy Regulatory Commission shall shall take affirmative steps in the exercise of its authorities under the Federal Power Act to encourage the deployment of transmission technologies that utilize real time monitoring and analytical software to increase and maximize the capacity and efficiency of transmission networks and to reduce line losses.

## Subtitle B—Transmission Operation

**SEC. 16021. OPEN ACCESS TRANSMISSION BY CERTAIN UTILITIES.**

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following:

**''SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.**

''(a) IN GENERAL.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

''(1) at rates that are comparable to those that the unregulated transmitting utility charges itself, and

''(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

''(b) EXEMPTIONS.—

''(1) IN GENERAL.—The Commission shall exempt from any rule or order under this subsection any unregulated transmitting utility that—

''(A)(i) sells no more than 4,000,000 megawatt hours of electricity per year; and

''(ii) is a distribution utility; or

''(B) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

''(C) meets other criteria the Commission determines to be in the public interest.

''(2) LOCAL DISTRIBUTION.— The requirements of subsection (a) shall not apply to facilities used in local distribution.

''(c) RATE CHANGING PROCEDURES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

''(d) REMAND.—In exercising its authority under paragraph (1), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

''(e) SECTION 211 REQUESTS.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

''(f) DEFINITIONS.—For purposes of this section—

''(1) The term 'unregulated transmitting utility' means an entity that—

''(A) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

''(B) is either an entity described in section 201(f) or a rural electric cooperative.

''(2) The term 'distribution utility' means an unregulated transmitting utility that serves at least ninety percent of its electric customers at retail.''.

**SEC. 16022. REGIONAL TRANSMISSION ORGANIZATIONS.**

(a) SENSE OF THE CONGRESS ON RTOS.—It is the sense of Congress that, in order to promote fair, open access to electric transmission service, benefit retail consumers, facilitate wholesale competition, improve efficiencies in transmission grid management, promote grid reliability, remove opportunities for unduly discriminatory or preferential transmission practices, and provide for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets, all transmitting utilities in interstate commerce should voluntarily become members of independently administered regional transmission organizations that have operational control of interstate transmission facilities and do not own or control generation facilities used to supply electric energy for sale at wholesale.

(b) SENSE OF THE CONGRESS ON CAPITAL INVESTMENT.—It is the sense of the Congress that the Federal Energy Regulatory Commission should provide to any transmitting utility that becomes a member of an operational regional transmitting organization approved by the Commission a return on equity sufficient to attract new investment capital for expansion of transmission capacity, in accordance with sections 205 and 206 of the Federal Power Act (16 U.S.C. 824d and 824e), including the requirement that rates be just and reasonable.

(c) REPORT ON PENDING APPLICATIONS.—Not later than 120 days after the date of enactment of this section, the Federal Energy Regulatory Commission shall submit to the Committee on Energy and Commerce of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report containing the following:

(1) A list of all regional transmission organization applications filed at the Commission pursuant to the Commission's Order No. 2000, including an identification of each public utility and other entity included within the proposed membership of the regional transmission organization.

(2) A table showing the date each such application was filed, the date of any revised filings of such application, the date of each preliminary or final Commission order regarding such application, and a statement of whether the application has been rejected, preliminarily approved, finally approved, or has some other status (including a description of that status).

(3) For any application that has not been finally approved by the Commission, a detailed description of every aspect of the application that the Commission has determined does not conform to the requirements of Order No. 2000.

(4) For any application that has not been finally approved by the Commission, an explanation by the Commission of why the items described pursuant to paragraph (3) constitute material noncompliance with the requirements of the Commission's Order No. 2000 sufficient to justify denial of approval by the Commission.

(5) For all regional transmission organization applications filed pursuant to the Commission's Order No. 2000, whether finally approved or not—

(A) a discussion of that regional transmission organization's efforts to minimize rate seams between itself and—

(i) other regional transmission organizations; and

(ii) entities not participating in a regional transmission organization; and

(B) a discussion of the impact of such seams on consumers and wholesale competition; and

(C) a discussion of minimizing cost-shifting on consumers.

(d) FEDERAL UTILITY PARTICIPATION IN RTOS.—

(1) DEFINITIONS.—For purposes of this section—

(A) The term ''appropriate Federal regulatory authority'' means—

(i) with respect to a Federal power marketing agency, the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(ii) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(B) The term ''Federal utility'' means a Federal power marketing agency or the Tennessee Valley Authority.

(C) The term ''transmission system'' means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(2) TRANSFER.—The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to a regional transmission organization approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

(A) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement or other arrangement, consistency with existing contracts and third-party financing arrangements, and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(B) provisions for monitoring and oversight by the Federal utility of the regional transmission organization's fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision that may provide for the resolution of disputes through arbitration or other means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(C) a provision that allows the Federal utility to withdraw from the regional transmission organization and terminate the contract, agreement or other arrangement in accordance with its terms.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using a regional transmission organization shall serve to confer upon the Federal Energy Regulatory Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(3) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(A) SYSTEM OPERATION REQUIREMENTS.—Any statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall not be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of paragraph (2).

(B) OTHER OBLIGATIONS.—This subsection shall not be construed to—

(i) suspend, or exempt any Federal utility from, any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(ii) authorize abrogation of any contract or treaty obligation.

**SEC. 16023. NATIVE LOAD.**

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding the following new section at the end thereof:

**''SEC. 217. SERVICE OBLIGATIONS OF LOAD-SERVING ENTITIES.**

''(a) IN GENERAL.—In exercising authority under this Act, the Commission shall ensure that any load-serving entity that either—

''(1) owns transmission facilities for the transmission of electric energy in interstate commerce used to purchase or deliver electric energy to meet—

''(A) a service obligation to customers; or

''(B) an existing wholesale contractual obligation; or

''(2) holds a contract or service agreement for firm transmission service used to purchase or deliver electric energy to meet—

''(A) a service obligation to customers; or

''(B) an existing wholesale contractual obligation

shall be entitled to use such transmission facilities or equivalent transmission rights to meet such obligations before transmission capacity is made available for other uses.

''(b) USE BY SUCCESSOR IN INTEREST.—To the extent that all or a portion of the service obligation or contractual obligation covered by subsection (a) is transferred to another load serving entity, the successor shall be entitled to use such transmission facilities or firm transmission rights associated with the transferred service obligation consistent with subsection (a). Subsequent transfers to another load serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

''(c) OTHER ENTITIES.—The Commission may exercise authority under this Act to make transmission rights not used to meet an obligation covered by subsection (a) available to other entities in a manner determined by the Commission to be not unduly discriminatory or preferential.

''(d) DEFINITIONS.—For the purposes of this section:

''(1) The term 'load-serving entity' means an electric utility, transmitting utility or Federal power marketing agency that has an obligation under Federal, State, or local law, or under long-term contracts, to provide electric service to either—

''(A) electric consumers (as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)); or

''(B) an electric utility as defined in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)) that has an obligation to provide electric service to electric consumers.

Such obligations shall be deemed 'service obligations'.

''(2) The term 'existing wholesale contractual obligation' means an obligation under a firm long-term wholesale contract that was in effect on March 28, 2003. A contract modification after March 28, 2003 (other than one that increases the quantity of electric energy sold under the contract) shall not affect the status of such contract as an existing wholesale contractual obligation.

''(e) RELATIONSHIP TO OTHER PROVISIONS.—To the extent that a transmitting utility reserves transmission capacity (or reserves the equivalent amount of tradable transmission rights) to provide firm transmission service to meet service obligations or firm long-term wholesale contractual obligations pursuant to subsection (a), that transmitting utility shall not be considered as engaging in undue discrimination or preference under this Act.

''(f) JURISDICTION.—This section shall not apply to an entity located in an area referred to in section 212(k)(2)(A).

''(g) SAVINGS CLAUSE.—Nothing in this section shall affect any allocation of transmission rights by the PJM Interconnection, the New York Independent System Operator, the New England Independent System Operator, the Midwest Independent System Operator, or the California Independent System Operator. Nothing in this section shall provide a basis for abrogating any contract for firm transmission service or rights in effect as of the date of enactment of this section.''.

**Subtitle C—Reliability**

**SEC. 16031. ELECTRIC RELIABILITY STANDARDS.**

Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by inserting the following new section at the end thereof:

**''SEC. 218. ELECTRIC RELIABILITY.**

''(a) DEFINITIONS.—For purposes of this section—

''(1) The term 'bulk-power system' means—

''(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

''(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

''(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

''(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

''(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

''(6) The term 'transmission organization' means a regional transmission organization, independent system operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

''(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

''(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

''(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization (ERO). The Commission may certify one such ERO if the Commission determines that such ERO—

''(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system;

''(2) has established rules that—

''(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

''(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

''(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

''(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

''(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

''(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

''(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

''(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

''(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

''(A) the Commission finds a conflict exists between a reliability standard and any such provision;

''(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

''(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

''(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

''(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

''(B) files notice and the record of the proceeding with the Commission.

''(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the electric reliability organization files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the electric reliability organization and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the electric reliability organization for further proceedings. The Commission shall implement expedited procedures for such hearings.

''(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

''(4) The Commission shall establish regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

''(A) the regional entity is governed by—

''(i) an independent board;

''(ii) a balanced stakeholder board; or

''(iii) a combination independent and balanced stakeholder board.

''(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

''(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

''(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

''(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

''(f) CHANGES IN ELECTRICITY RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the Electric Reliability Organization. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

''(g) RELIABILITY REPORTS.—The Electric Reliability Organization shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

''(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the Electric Reliability Organization in the United States and Canada or Mexico.

''(i) SAVINGS PROVISIONS.—(1) The Electric Reliability Organization shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

''(2) This section does not authorize the Electric Reliability Organization or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards.

''(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the Electric Reliability Organization.

''(5) The Commission, after consultation with the Electric Reliability Organization and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

''(k) APPLICATION TO ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.''.

**Subtitle D—PUHCA Amendments**

**SEC. 16041. SHORT TITLE.**

This subtitle may be cited as the ''Public Utility Holding Company Act of 2003''.

**SEC. 16042. DEFINITIONS.**

For purposes of this subtitle:

(1) The term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) The term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) The term ''person'' means an individual or company.

(13) The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term ''public utility company'' means an electric utility company or a gas utility company.

(15) The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) The term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

**SEC. 16043. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.**

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

**SEC. 16044. FEDERAL ACCESS TO BOOKS AND RECORDS.**

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

**SEC. 16045. STATE ACCESS TO BOOKS AND RECORDS.**

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail by the State commission;

(2) the State commission deems are relevant to costs incurred by such public utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

**SEC. 16046. EXEMPTION AUTHORITY.**

(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall promulgate a final rule to exempt from the requirements of section 16044 (relating to Federal access to books and records) any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 16044 (relating to Federal access to books and records) if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

**SEC. 16047. AFFILIATE TRANSACTIONS.**

(a) COMMISSION AUTHORITY UNAFFECTED.—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the promulgation of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) RECOVERY OF COSTS.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company from an associate company.

**SEC. 16048. APPLICABILITY.**

Except as otherwise specifically provided in this subtitle, no provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of his or her official duty.

**SEC. 16049. EFFECT ON OTHER REGULATIONS.**

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

**SEC. 16050. ENFORCEMENT.**

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

**SEC. 16051. SAVINGS PROVISIONS.**

(a) IN GENERAL.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, so long as that person continues to comply with the terms of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

**SEC. 16052. IMPLEMENTATION.**

Not later than 12 months after the date of enactment of this subtitle, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle (other than section 16045, relating to State access to books and records); and

(2) submit to the Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

**SEC. 16053. TRANSFER OF RESOURCES.**

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

**SEC. 16054. EFFECTIVE DATE.**

This subtitle shall take effect 12 months after the date of enactment of this subtitle.

**SEC. 16055. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such funds as may be necessary to carry out this subtitle.

**SEC. 16056. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.**

(a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

(b) DEFINITIONS.—(1) Section 201(g)(5) of the Federal Power Act (16 U.S.C. 824(g)(5)) is amended by striking ''1935'' and inserting ''2003''.

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking ''1935'' and inserting ''2003''.

## Subtitle E—PURPA Amendments

**SEC. 16061. REAL-TIME PRICING AND TIME-OF-USE METERING STANDARDS.**

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(11) REAL-TIME PRICING.—(A) Each electric utility shall, at the request of an electric consumer, provide electric service under a real-time rate schedule, under which the rate charged by the electric utility varies by the hour (or smaller time interval) according to changes in the electric utility's wholesale power cost. The real-time pricing service shall enable the electric consumer to manage energy use and cost through real-time metering and communications technology.

''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.

''(12) TIME-OF-USE METERING.—(A) Each electric utility shall, at the request of an electric consumer, provide electric service under a time-of-use rate schedule which enables the electric consumer to manage energy use and cost through time-of-use metering and technology.

''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.''.

(b) SPECIAL RULES.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

''(i) REAL-TIME PRICING.—In a State that permits third-party marketers to sell electric energy to retail electric consumers, the electric consumer shall be entitled to receive the same real-time metering and communication service as a direct retail electric consumer of the electric utility.

''(j) TIME-OF-USE METERING.—In a State that permits third-party marketers to sell electric energy to retail electric consumers, the electric consumer shall be entitled to receive the same time-of-use metering and communication service as a direct retail electric consumer of the electric utility.''.

**SEC. 16062. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.**

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

''(1) OBLIGATION TO PURCHASE.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

''(A) the qualifying cogeneration facility or qualifying small power production facility has access to

''(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy, and

''(ii) long-term wholesale markets for the sale of capacity and electric energy;

''(B) the qualifying cogeneration facility or qualifying small power production facility has access to a competitive wholesale market for the sale of electric energy that provides such qualifying cogeneration facility or qualifying small power production facility with opportunities to sell electric energy that, at a minimum, are comparable to the opportunities provided by the markets, or some minimum combination thereof, described in subparagraph (A); or

''(C) the qualifying cogeneration facility does not meet criteria established by the Commission pursuant to the rulemaking set forth in subparagraph (n) and has not filed with the Commission a notice of self-certification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date of enactment of this subsection.

''(2) COMMISSION REVIEW.—(A) Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a utility-wide basis. Such application shall set forth the reasons why such relief is appropriate and describe how the conditions set forth in subparagraphs (A) and (B) of paragraph (1) of this subsection have been met.

''(B) After notice, including sufficient notice to potentially affected qualifying facilities, and an opportunity for comment, and within 90 days of the filing of an application under subparagraph (A), the Commission shall make a final determination as to whether the conditions set forth in subparagraphs (A) and (B) of paragraph (1) have been met. The Commission shall not be authorized to issue a tolling order regarding such application or otherwise delay a final decision regarding such application.

''(3) REINSTATEMENT OF OBLIGATION TO PURCHASE.—(A) At any time after the Commission makes a finding under paragraph (2) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility or a qualifying small power production facility may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the reasons why such relief is no longer appropriate and describe how the tests set forth in subparagraphs (A) and (B) of paragraph (1) of this subsection are no longer met.

''(B) After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, and within 90 days of the filing of an application under subparagraph (A), the Commission shall issue an order reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the condition in paragraph (1), which relieved the obligation to purchase, is no longer met. The Commission shall not be authorized to issue a tolling order regarding such application or otherwise delay a final decision regarding such application.

''(4) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility if—

''(A) competing retail electric suppliers are willing and able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility, and

''(B) the electric utility is not required by State law to sell electric energy in its service territory.

''(5) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or nonregulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

''(6) RECOVERY OF COSTS.—

''(A) REGULATION.—To ensure recovery by an electric utility that purchases electric energy or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed under this section of all prudently incurred costs associated with the purchases, the Commission shall issue and enforce such regulations as may be required to ensure that the electric utility shall recover the prudently incurred costs associated with such purchases.

''(B) ENFORCEMENT.—A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

''(n) RULEMAKING FOR NEW FACILITIES.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Commission shall issue a rule revising the criteria for qualifying cogeneration facilities in 18 C.F.R. 292.205. In particular, the Commission shall evaluate the rules regarding qualifying facility criteria and revise such rules, as necessary, to ensure—

''(A) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

''(B) the electrical and thermal output of the cogeneration facility is used predominantly for commercial or industrial processes and not intended predominantly for sale to an electric utility; and

''(C) continuing progress in the development of efficient electric energy generating technology.

''(2) APPLICABILITY.—Any revisions made to operating and efficiency standards shall be applicable only to a cogeneration facility that—

''(A) was not a qualifying cogeneration facility, or

''(B) had not filed with the Commission a notice of self-certification or an application for Commission certification under 18 C.F.R. 292.207

prior to the date of enactment of this subsection.

''(3) DEFINITION.—For purposes of this subsection, the term 'commercial processes' includes uses of thermal and electric energy for educational and healthcare facilities.

''(o) RULES FOR EXISTING FACILITIES.— Notwithstanding rule revisions under subsection (n), the Commission's rules in effect prior to the effective date of any revised rules prescribed under subsection (n) shall continue to apply to any cogeneration facility or small power production facility that—

''(1) was a qualifying cogeneration facility or a qualifying small power production facility, or

''(2) had filed with the Commission a notice of self-certification or an application for Commission certification under 18 C.F.R. 292.207

prior to the date of enactment of subsections (m) and (n).''.

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—(1) Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

''(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.''.

(2) Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

''(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.''.

**SEC. 16063. SMART METERING.**

(a) IN GENERAL.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(13) TIME-BASED METERING AND COMMUNICATIONS.—(A) Not later than eighteen (18) months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance in the costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

''(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others, each the following:

''(i) Time-Of-Use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall.

''(ii) Critical Peak Pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption.

''(iii) Real-Time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis and may change as often as hourly.

''(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

''(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive that same time-based metering and communications device and service as a retail electric consumer of the electric utility.

''(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than twelve (12) months after enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).''.

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—

Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding the at the end the following:

''(k) TIME-BASED METERING AND COMMUNICATIONS.—Each State regulatory authority shall, not later than twelve (12) months after enactment of this subsection, conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.''.

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Polices Act of 1978 (16 U.S.C. 2642(a)) is amended by striking ''and'' at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting ''; and'', and by adding the following at the end thereof:

''(5) technologies, techniques and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.''.

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2643) is amended by adding the following at the end thereof:

''(d) DEMAND RESPONSE.—The Secretary shall be responsible for each of the following:

''(1) Educating consumers on the availability, advantages and benefits of advanced metering and communications technologies including the funding of demonstration or pilot projects.

''(2) Working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs, and

''(3) Within 6 months of enactment, provide the Congress with a report that identifies and quantifies the national benefits of demand response and provides policy recommendations as to how to achieve specific levels of such benefits by January 1, 2005.''.

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) POLICY.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by two or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response; and

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs.

(3) REPORT.—The Federal Energy Regulatory Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews each of the following:

(A) Saturation and penetration rate of advanced meters and communications technologies, devices and systems.

(B) Existing demand response programs and time-based rate programs.

(C) The annual resource contribution of demand resources, including the prior year and following years.

(D) The potential for demand response as a quantifiable, reliable resource for regional planning purposes.

(E) Steps taken to ensure that, in regional transmission planning and operations, that demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider or transmitting party.

(f) COST RECOVERY OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

## Subtitle F—Renewable Energy

### SEC. 16071. NET METERING.

(a) ADOPTION OF STANDARD.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(14) NET METERING.—(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.''.

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

''(l) NET METERING.—In undertaking the consideration and making the determination under section 111 with respect to the standard concerning net metering established by section 111(d)(14), the term 'net metering service' shall mean a service provided in accordance with the following standards:

''(1) RATES AND CHARGES.—An electric utility—

''(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

''(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

''(2) MEASUREMENT.—An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period in accordance with normal metering practices.

''(3) ELECTRIC ENERGY SUPPLIED EXCEEDING ELECTRIC ENERGY GENERATED.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with normal metering practices.

''(4) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY SUPPLIED.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

''(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

''(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

''(5) SAFETY AND PERFORMANCE STANDARDS.—An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

''(6) ADDITIONAL CONTROL AND TESTING REQUIREMENTS.—The Commission, after consultation with State regulatory authorities and nonregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

''(7) DEFINITIONS.—For purposes of this subsection:

''(A) The term 'eligible on-site generating facility' means—

''(i) a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or

''(ii) a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

''(B) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

''(C) The term 'high efficiency system' means service fuel cells or combined heat and power.

''(D) The term 'net metering' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.''

### SEC. 16072. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking ''and which satisfies'' and all that follows through ''Secretary shall establish.'' and inserting ''. If there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities in any given year, the Secretary shall assign 60 percent of appropriated funds for that year to facilities that use solar, wind, geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity, and assign the remaining 40 percent to other projects. The Secretary may, after transmitting to the Congress an explanation of the reasons therefor, alter the percentage requirements of the preceding sentence.''.

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking ''a State or any political'' and all that follows through ''nonprofit electrical cooperative'' and inserting ''a not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government of subdivision thereof,''; and

(2) by inserting ''landfill gas,'' after ''wind, biomass,''.

(c) ELIGIBILITY WINDOW.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking ''during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section'' and inserting ''after October 1, 2003, and before October 1, 2013''.

(d) AMOUNT OF PAYMENT.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended by inserting ''landfill gas,'' after ''wind, biomass,''.

(e) SUNSET.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking ''the expiration of'' and all that follows through ''of this section'' and inserting ''September 30, 2023''.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 1212(g) of the Energy Policy Act of 1992 (42 U.S.C. 13317(g)) is amended to read as follows:

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2003 through 2023.

''(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.''.

**SEC. 16073. RENEWABLE ENERGY ON FEDERAL LANDS.**

(a) REPORT TO CONGRESS.—Within 24 months after the date of enactment of this section, the Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall develop and report to the Congress recommendations on opportunities to develop renewable energy on public lands under the jurisdiction of the Secretary of the Interior and National Forest System lands under the jurisdiction of the Secretary of Agriculture. The report shall include—

(1) 5-year plans developed by the Secretary of the Interior and the Secretary of Agriculture, respectively, for encouraging the development of wind and solar energy consistent with applicable law and management plans; and

(2) an analysis of—

(A) the use of rights-of-ways, leases, or other methods to develop wind and solar energy on such lands;

(B) the anticipated benefits of grants, loans, tax credits, or other provisions to promote wind and solar energy development on such lands; and

(C) any issues that the Secretary of the Interior or the Secretary of Agriculture have encountered in managing wind or solar energy projects on such lands, or believe are likely to arise in relation to the development of wind or solar energy on such lands;

(3) a list, developed in consultation with the Secretary of Energy and the Secretary of Defense, of lands under the jurisdiction of the Department of Energy or Defense that would be suitable for development for wind or solar energy, and any recommended statutory and regulatory mechanisms for such development; and

(4) any recommendations pertaining to the issues addressed in the report.

(b) NATIONAL ACADEMY OF SCIENCES STUDY.—

(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary of the Interior shall contract with the National Academy of Sciences to—

(A) study the potential for the development of wind, solar, and ocean energy on the Outer Continental Shelf;

(B) assess existing Federal authorities for the development of such resources; and

(C) recommend statutory and regulatory mechanisms for such development.

(2) TRANSMITTAL OF RESULTS.—The results of the study shall be transmitted to the Congress within 24 months after the date of the enactment of this Act.

**SEC. 16074. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.**

(a) RESOURCE ASSESSMENT.—Not later than 3 months after the date of enactment of this Act, and each year thereafter, the Secretary of Energy shall review the available assessments of renewable energy resources available within the United States, including solar, wind, biomass, ocean, geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; and

(2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

## Subtitle G—Market Transparency, Round Trip Trading Prohibition, and Enforcement

**SEC. 16081. MARKET TRANSPARENCY RULES.**

Part II of the Federal Power Act is amended by adding the following new section at the end thereof:

**''SEC. 219. MARKET TRANSPARENCY RULES.**

''(a) COMMISSION RULES.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction. Such systems shall provide information about the availability and market price of sales of electric energy at wholesale in interstate commerce and transmission of electric energy in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis. The Commission shall have authority to obtain such information from any person, and any entity described in section 201(f), who sells electric energy at wholesale in interstate commerce or provides transmission services in interstate commerce.

''(b) EXEMPTIONS.—The Commission shall exempt from disclosure information it determines would, if disclosed, (1) be detrimental to the operation of an effective market; or (2) jeopardize system security. This section shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A).''.

**SEC. 16082. PROHIBITION ON ROUND TRIP TRADING.**

Part II of the Federal Power Act is amended by adding the following new section at the end thereof:

**''SEC. 220. PROHIBITION ON ROUND TRIP TRADING.**

''(a) PROHIBITION.—It shall be a violation of this Act for any person, and any entity described in section 201(f), willfully and knowingly to enter into any contract or other arrangement to execute a round-trip trade for the purchase or sale of electric energy at wholesale.

''(b) DEFINITION OF ROUND-TRIP TRADE.—For the purposes of this section, the term 'round-trip trade' means a transaction, or combination of transactions, in which a person or other entity—

''(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

''(2) simultaneously with entering into the contract described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same quantity of electric energy so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

''(3) has a specific intent to distort reported revenues, trading volumes, or prices.''.

**SEC. 16083. CONFORMING CHANGES.**

Section 201(e) of the Federal Power Act is amended by striking ''or 212'' and inserting ''212, 215, 216, 217, 218, 219, or 220''. Section 201(b)(2) of such Act is amended by striking ''and 212'' and inserting ''212, 215, 216, 217, 218, 219, and 220''.

**SEC. 16084. ENFORCEMENT.**

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—

(1) inserting ''electric utility,'' after ''Any person,''; and

(2) inserting '', transmitting utility,'' after ''licensee'' each place it appears.

(b) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''person,'' in the first place it appears and by striking ''any person unless such person'' and inserting ''any entity unless such entity''.

(c) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''five years'';

(2) in subsection (b), by striking ''$500'' and inserting ''$25,000''; and

(3) by striking subsection (c).

(d) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825–1) is amended—

(1) in subsections (a) and (b), by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''; and

(2) in subsection (b), by striking ''$10,000'' and inserting ''$1,000,000''.

### Subtitle H—Consumer Protections

**SEC. 16091. REFUND EFFECTIVE DATE.**

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) striking ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' in the second sentence and inserting ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint'';

(2) striking ''60 days after'' in the third sentence and inserting ''of'';

(3) striking ''expiration of such 60-day period'' in the third sentence and inserting ''publication date''; and

(4) in the fifth sentence after ''rendered by the'' insert ''date 60 days after the''.

**SEC. 16092. JURISDICTION OVER INTERSTATE SALES.**

(a) SCOPE OF AUTHORITY.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding the following new subsection at the end thereof:

''(e)(1) If an entity that is not a public utility (including an entity referred to in section 201(f)) voluntarily makes a spot market sale of electric energy and such sale violates Commission rules in effect at the time of such sale, such entity shall be subject to the Commission's refund authority under this section with respect to such violation.

''(2) This section shall not apply to any entity that is either—

''(A) an entity described in section 201(f); or

''(B) a rural electric cooperative

that does not sell more than 4,000,000 megawatt hours of electricity per year.

''(3) For purposes of this subsection, the term 'spot market sale' means an agreement for the sale of electric energy at wholesale in interstate commerce that is for 24 hours or less and that is entered into the day of, or the day prior to, delivery.''.

(b) CONFORMING AMENDMENTS.—(1) Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended as follows:

(A) In subsection (b), in the seventh sentence, by striking ''the public utility to make''.

(B) In the first sentence of subsection (a), by striking ''hearing had'' and inserting ''hearing held''.

(2) Section 201(b)(2) of such Act (16 U.S.C. 824(b)(2)) is amended as follows:

(A) In the first sentence by striking ''sections 210'' and inserting ''sections 206(f), 210''.

(B) In the second sentence by striking ''section 210'' and inserting ''section 206(f), 210,''.

(3) Section 201(e) of the Federal Power Act is amended by striking ''section 210'' and inserting ''section 206(f), 210''.

(c) UNIFORM INVESTIGATION AUTHORITY.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended as follows:

(1) By inserting '', electric utility, transmitting utility, or other entity'' after ''person'' each time it appears.

(2) By striking the period at the end of the first sentence and inserting the following: ''or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.''.

(d) SANCTITY OF CONTRACT.—(1) The Federal Energy Regulatory Commission shall have no authority to abrogate or modify any provision of a contract, except upon a finding, after notice and opportunity for a hearing, that such action is necessary to protect the public interest, unless such contract expressly provides for a different standard of review.

(2) For purposes of this subsection, a contract is any agreement, in effect and subject to the jurisdiction of the Commission—

(A) under section 4 of the Natural Gas Act or section 205 of the Federal Power Act; and

(B) that is not for sales in an organized exchange or auction spot market.

(3) This subsection shall not apply to any contract executed before the date of enactment of this section unless such contract is an interconnection agreement, nor shall this subsection affect the outcome in any proceeding regarding any contract for sales of electric power executed before the date of enactment of this section.

**SEC. 16093. CONSUMER PRIVACY.**

(a) IN GENERAL.—The Federal Trade Commission shall issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers. The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(b) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

**SEC. 16094. UNFAIR TRADE PRACTICES.**

(a) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(b) CRAMMING.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(d) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

### Subtitle I—Merger Review Reform and Accountability

**SEC. 16101. MERGER REVIEW REFORM AND ACCOUNTABILITY.**

(a) MERGER REVIEW REFORM.—Within 180 days after the date of enactment of this Act, the Secretary of Energy, in consultation with the Federal Energy Regulatory Commission and the Department of Justice, shall prepare, and transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate each of the following:

(1) A study of the extent to which the authorities vested in the Federal Energy Regulatory Commission under section 203 of the Federal Power Act are duplicative of authorities vested in—

(A) other agencies of Federal and State government; and

(B) the Federal Energy Regulatory Commission, including under sections 205 and 206 of the Federal Power Act.

(2) Recommendations on reforms to the Federal Power Act that would eliminate any unnecessary duplication in the exercise of regulatory authority or unnecessary delays in the approval (or disapproval) of applications for the sale, lease, or other disposition of public utility facilities.

(b) MERGER REVIEW ACCOUNTABILITY.—Not later than 1 year after the date of enactment of this Act and annually thereafter, with respect to all orders issued within the preceding year that impose a condition on a sale, lease, or other disposition of public utility facilities under section 203(b) of the Federal Power Act, the Federal Energy Regulatory Commission shall transmit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate explaining each of the following:

(1) The condition imposed.

(2) Whether the Commission could have imposed such condition by exercising its authority under any provision of the Federal Power Act other than under section 203(b).

(3) If the Commission could not have imposed such condition other than under section 203(b), why the Commission determined that such condition was consistent with the public interest.

### Subtitle J—Study of Economic Dispatch

**SEC. 16111. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.**

(a) STUDY.—The Secretary of Energy, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch,

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each state if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) DEFINITION.—The term ''economic dispatch'' when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) REPORT TO CONGRESS AND THE STATES.—Not later than 90 days after the date of enactment of this Act, and on a yearly basis following, the Secretary of Energy shall submit a report to the Congress and the States on the results of the study conducted under subsection (a), including recommendations to the Congress and the States for any suggested legislative or regulatory changes.

## TITLE VII—MOTOR FUELS

### Subtitle A—General Provisions

**SEC. 17101. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.**

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

''(o) RENEWABLE FUEL PROGRAM.—

''(1) DEFINITIONS.—In this section:

''(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(i) dedicated energy crops and trees;

''(ii) wood and wood residues;

''(iii) plants;

''(iv) grasses;

''(v) agricultural residues;

''(vi) fibers;

''(vii) animal wastes, including poultry fats and poultry wastes, and other waste materials; and

''(viii) municipal solid waste.

''(B) RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

''(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

''(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

''(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(ii) INCLUSION.—The term 'renewable fuel' includes cellulosic biomass ethanol and biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)) and any blending components derived from renewable fuel (provided that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection).

''(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

''(2) RENEWABLE FUEL PROGRAM.—

''(A) IN GENERAL.—Not later than 1 year from enactment of this provision, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in the contiguous United States, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, such regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewables can be used, or impose any per-gallon obligation for the use of renewables. If the Administrator does not promulgate such regulations, the applicable percentage, on a volume percentage of gasoline basis, shall be 1.62 in 2005.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2005 THROUGH 2015.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2015 shall be determined in accordance with the following table:

**Applicable volume of renewable fuel**

| ''**Calendar year:** | **(In billions of gallons)** |
|---|---|
| 2005 | 2.7 |
| 2006 | 2.7 |
| 2007 | 2.9 |
| 2008 | 2.9 |
| 2009 | 3.4 |
| 2010 | 3.4 |
| 2011 | 3.4 |
| 2012 | 4.2 |
| 2013 | 4.2 |
| 2014 | 4.2 |
| 2015 | 5.0. |

''(ii) CALENDAR YEAR 2016 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2016 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2015.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each calendar year after 2002, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall, by November 30 of each calendar year after 2003, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refineries during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

''(i) in the calendar year in which the credit was generated or the next calendar year, or

''(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2005 through 2015, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during one of the periods specified in subparagraph (D) of the calendar year;

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years; and

''(iii) promulgating regulations or other requirements to impose a 35% or more seasonal use of renewable fuels will not prevent or interfere with the attainment of national ambient air quality standards or significantly increase the price of motor fuels to the consumer.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2005 in a State which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would have a significant and meaningful adverse impact on the economy or environment of a State, a region, or the United States, or will prevent or interfere with the attainment of a national ambient air quality standard in any area of a State; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator. If the Administrator does not act to approve or disapprove a State petition for a waiver within 90 days, the Administrator shall publish a notice setting forth the reasons for not acting within the required 90-day period.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional or State basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7) or paragraph (9), pertaining to waivers.

''(9) ASSESSMENT AND WAIVER.—The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Agriculture on his own motion, or upon petition of any State shall evaluate the requirement of paragraph (2) and determine, prior to January 1, 2007, or prior to January 1 of any subsequent year in which the applicable volume of renewable fuel is increased under paragraph (2)(B), whether the requirement of paragraph (2), including the applicable volume of renewable fuel contained in paragraph (2)(B) should remain in effect, in whole or in part, during 2007 or any year or years subsequent to 2007. In evaluating the requirement of paragraph (2) and in making any determination under this section, the Secretary shall consider the best available information and data collected by accepted methods or best available means regarding—

''(A) the capacity of renewable fuel producers to supply an adequate amount of renewable fuel at competitive prices to fulfill the requirement in paragraph (2);

''(B) the potential of the requirement in paragraph (2) to significantly raise the price of gasoline, food or heating oil for consumers in any significant area or region of the country above the price that would otherwise apply to such commodities in the absence of the requirement;

''(C) the potential of the requirement in paragraph (2) to interfere with the supply of fuel in any significant gasoline market or region of the country, including interference with the efficient operation of refiners, blenders, importers, wholesale suppliers, and retail vendors of gasoline, and other motor fuels; and

''(D) the potential of the requirement to cause or promote exceedences of Federal, State, or local air quality standards.

If the Secretary determines, after public notice and the opportunity for comment, that the requirement of paragraph (2) would have significant and meaningful adverse impact on the supply of fuel and related infrastructure or on the economy, environment, public health or environment of any significant area or region of the country, the Secretary may waive, in whole or in part, the requirement of paragraph (2) in any one year or period of years as well as reduce the applicable volume of renewable fuel contained in paragraph (2)(B) in any one year or period of years.

''(10) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until the first calendar year beginning more than 5 years after the first year set forth in the table in paragraph (2)(B)(i). Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).''.

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking ''or (n)'' each place it appears and inserting ''(n) or (o)''; and

(B) in the second sentence, by striking ''or (m)'' and inserting ''(m), or (o)''; and

(2) in the first sentence of paragraph (2), by striking ''and (n)'' each place it appears and inserting ''(n), and (o)''.

(c) SURVEY OF RENEWABLE FUEL MARKET.—

(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator of the Environmental Protection Agency (in consultation with the Secretary of Energy acting through the Administrator of the Energy Information Administration) shall—

(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

(i) conventional gasoline containing ethanol;

(ii) reformulated gasoline containing ethanol;

(iii) conventional gasoline containing renewable fuel; and

(iv) reformulated gasoline containing renewable fuel; and

(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate. The Administrator shall rely, to the extent practicable, on existing reporting and recordkeeping requirements to avoid duplicative requirements.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

(4) CALCULATION OF MARKET SHARES.—Market shares for conventional gasoline and reformulated gasoline use areas will be calculated on a statewide basis using information collected under paragraph (2) and other information available to the Administrator. Market share information may be based upon gasoline distribution patterns that include multistate use areas.

**SEC. 17102. FUELS SAFE HARBOR.**

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, no renewable fuel, as defined by section 211(o)(1) of the Clean Air Act, or fuel containing MTBE, used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing such renewable fuel or MTBE, shall be deemed defective in design or manufacture by virtue of the fact that it is, or contains, such a renewable fuel or MTBE, if it does not violate a control or prohibition imposed by the Administrator under section 211 of such Act, and the manufacturer is in compliance with all requests for information under subsection (b) of such section 211(b) of the Clean Air Act. If the safe harbor provided by this section does not apply, the existence of a design defect or manufacturing defect shall be determined under otherwise applicable law. Nothing in this paragraph shall be construed to affect the liability of any person for environmental remediation costs, drinking water contamination, negligence, public nuisance or any other liability other than liability for a defect in design or manufacture of a motor vehicle fuel.

(b) EFFECTIVE DATE.—This section shall be effective as of the date of enactment and shall apply with respect to all claims filed on or after that date.

**SEC. 17103. FINDINGS AND MTBE TRANSITION ASSISTANCE.**

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (referred to in this section as ''MTBE'') has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygen standard, Congress was aware that significant use of MTBE would result from the adoption of that standard, and that the use of MTBE would likely be important to the cost-effective implementation of that program;

(4) Congress was aware that gasoline and its component additives can and do leak from storage tanks;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101–549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) Congress has—

(A) reconsidered the relative value of the oxygenate requirement for reformulated gasoline; and

(B) decided to provide for the elimination of the oxygenate requirement for reformulated gasoline and to provide for a renewable content requirement for motor fuel; and

(7) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act; and

(B) for the purpose of mitigating any fuel supply problems that may result from the elimination of the oxygenate requirement for reformulated gasoline.

(b) PURPOSES.—The purpose of this section is to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended by adding at the end the following:

''(5) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

''(A) IN GENERAL.—

''(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of iso-octane and alkylates.

''(ii) DETERMINATION.—The Administrator, in consultation with the Secretary of Energy, may determine that transition assistance for the production of iso-octane and alkylates is inconsistent with the provisions of subparagraph (B) and, on that basis, may deny applications for grants authorized by this provision.

''(B) FURTHER GRANTS.—The Secretary of Energy, in consultation with the Administrator, may also further make grants to merchant producers of MTBE in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of such other fuel additives that, consistent with this subsection—

''(i) unless the Administrator determines that such fuel additives may reasonably be anticipated to endanger public health or the environment;

''(ii) have been registered and have been tested or are being tested in accordance with the requirements of this section; and

''(iii) will contribute to replacing gasoline volumes lost as a result of paragraph (5).

''(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

''(i) is located in the United States; and

''(ii) produced methyl tertiary butyl ether for consumption before April 1, 2003 and ceased production at any time after the date of enactment.

''(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2004 through 2006, to remain available until expended.''.

(d) EFFECT ON STATE LAW.—The amendments made to the Clean Air Act by this title have no effect regarding any available authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

**SEC. 17104. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.**

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking ''(including the oxygen content requirement contained in subparagraph (B))'';

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v);

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii); and

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect 270 days after the date of enactment of this Act, except that such amendments shall take effect upon enactment in any State that has received a waiver under section 209(b) of the Clean Air Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking ''Within 1 year after the enactment of the Clean Air Act Amendments of 1990,'' and inserting the following:

''(A) IN GENERAL.—Not later than November 15, 1991,''; and

(2) by adding at the end the following:

''(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

''(i) DEFINITIONS.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

''(ii) REGULATIONS REGARDING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph the Administrator shall establish, for each refinery or importer, standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refinery or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refinery or importer during calendar years 1999 and 2000, determined on the basis of data collected by the Administrator with respect to the refinery or importer.

''(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

''(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refinery or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refinery or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refinery or importer during calendar years 1999 and 2000.

''(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refinery or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

''(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

''(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

''(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

''(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

''(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

''(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

''(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

''(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refinery or importer shall meet the standards applicable under clause (ii) not later than April 1 of the year following the report in subclause (II) and for subsequent years.

''(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2004, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).''.

(c) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(d) SAVINGS CLAUSE.—Nothing in this section is intended to affect or prejudice either any legal claims or actions with respect to regulations promulgated by the Administrator prior to enactment of this Act regarding emissions of toxic air pollutants from motor vehicles or the adjustment of standards applicable to a specific refinery or importer made under such prior regulations and the Administrator may apply such adjustments to the standards applicable to such refinery or importer under clause (iii)(I) of section 211(k)(1)(B) of the Clean Air Act, except that—

(1) the Administrator shall revise such adjustments to be based only on calendar years 1999–2000, and

(2) for adjustments based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline, the Administrator may revise such adjustments to take account of the scope of any lawful and enforceable Federal or State prohibition on methyl tertiary butyl ether imposed after the effective date of the enactment of this paragraph, except that any such adjustment shall require such refiner or importer, to the greatest extent practicable, to maintain the reduction achieved during calendar year 1999–2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refinery or importer. Any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 1999–2000.

**SEC. 17105. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (o) the following:

''(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

''(1) ANTI-BACKSLIDING ANALYSIS.—

''(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by title VII of the Energy Policy Act of 2003.

''(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

''(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.''.

**SEC. 17106. DATA COLLECTION.**

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(m) RENEWABLE FUELS SURVEY.—(1) In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information both on a national and regional basis, including—

''(A) the quantity of renewable fuels produced;

''(B) the quantity of renewable fuels blended;

''(C) the quantity of renewable fuels imported;

''(D) the quantity of renewable fuels demanded;

''(E) market price data; and

''(F) such other analyses or evaluations as the Administrator finds is necessary to achieve the purposes of this section.

''(2) The Administrator shall also collect or estimate information both on a national and regional basis, pursuant to subparagraphs (A) through (F) of paragraph (1), for the five years prior to implementation of this subsection.

''(3) This subsection does not affect the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a).''.

**SEC. 17107. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.**

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to consumers in various States and localities;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while improving air quality at the national, regional and local levels consistent with the attainment of national ambient air quality standards, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply;

(F) the feasibility of providing incentives, to promote cleaner burning motor vehicle fuel; and

(G) the extent to which improvements in air quality and any increases or decreases in the price of motor fuel can be projected to result from the Environmental Protection Agency's Tier II requirements for conventional gasoline and vehicle emission systems, the reformulated gasoline program, the renewable content requirements established by this subtitle, State programs regarding gasoline volatility, and any other requirements imposed by States or localities affecting the composition of motor fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2006, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) motor vehicle fuel producers and distributors; and

(D) the public.

**SEC. 17108. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.**

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term ''municipal solid waste'' has the meaning given the term ''solid waste'' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal; or

(B) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

## Subtitle B—MTBE Cleanup

**SEC. 17201. FUNDING FOR MTBE CONTAMINATION.**

Notwithstanding any other provision of law, there is authorized to be appropriated to the Administrator of the United States Environmental Protection Agency from the Leaking Underground Storage Tank Trust

Fund not more than $850,000,000 to be used for taking such action limited to site assessment (including exposure assessment), corrective action, inspection of underground storage tank systems, and groundwater monitoring as the Administrator deems necessary to protect human health, welfare, and the environment from underground storage tank releases of fuel containing fuel oxygenates.

### TITLE VIII—AUTOMOBILE EFFICIENCY

**SEC. 18001. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION AND ENFORCEMENT OF FUEL ECONOMY STANDARDS.**

In addition to any other funds authorized by law, there are authorized to be appropriated to the National Highway Traffic Safety Administration to implement and enforce average fuel economy standards $5,000,000 for fiscal years 2004 through 2006.

**SEC. 18002. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.**

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall study the feasibility and effects of reducing by model year 2012, by a significant percentage, the use of fuel for automobiles.

(b) SUBJECTS OF STUDY.—The study under this section shall include—

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on—

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

(c) REPORT.—The Administrator shall submit to the Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

### DIVISION B—SCIENCE

**SEC. 20001. PURPOSES.**

The purposes of this division are to—

(1) contribute to a national energy strategy through an energy research and development program that supports basic energy research and provides mechanisms to develop, demonstrate, and promote the commercial application of new energy technologies in partnership with industry;

(2) protect and strengthen the Nation's economy, standard of living, and national security by reducing dependence on imported energy;

(3) meet future needs for energy services at the lowest total cost to the Nation, giving balanced and comprehensive consideration to technologies that improve the efficiency of energy end uses and that enhance energy supply;

(4) reduce the environmental impacts of energy production, distribution, transportation, and use;

(5) help increase domestic production of energy, increase the availability of hydrocarbon reserves, and lower energy prices; and

(6) stimulate economic growth and enhance the ability of United States companies to compete in future markets for advanced energy technologies.

**SEC. 20002. GOALS.**

(a) IN GENERAL.—In order to achieve the purposes of this division, the Secretary shall conduct a balanced set of programs of energy research, development, demonstration, and commercial application, guided by the following goals:

(1) ENERGY EFFICIENCY.—

(A) BUILDINGS.—Develop, in partnership with industry, technologies, designs, and production methods that will enable an average 25 percent increase by 2010 in the energy efficiency of all new buildings, as compared to a new building in 1996.

(B) INDUSTRY.—Develop, in partnership with industry, technologies, designs, and production methods that will enable the energy intensity of the major energy-consuming industries to improve by at least 25 percent by 2010 as compared to 1991.

(C) VEHICLES.—Develop, in partnership with industry, technologies that will enable—

(i) by 2010, mid-sized passenger automobiles with a fuel economy of 80 miles per gallon;

(ii) by 2010, light trucks (classes 1 and 2a) with a fuel economy of 60 miles per gallon;

(iii) by 2010, medium trucks and buses (classes 2b through 6 and class 8 transit buses) with a fuel economy, in ton-miles per gallon for trucks and passenger miles per gallon for buses, that is 3 times that of year 2000 equivalent vehicles;

(iv) by 2010, heavy trucks (classes 7 and 8) with a fuel economy, in ton-miles per gallon, that is 2 times that of year 2000 equivalent vehicles; and

(v) by 2020, meeting the goal of the President's Hydrogen Initiative.

(2) DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.—

(A) DISTRIBUTED GENERATION.—Develop, in partnership with industry, technologies based on natural gas that achieve electricity generating efficiencies greater than 40 percent by 2015 for on-site, or distributed, generation technologies.

(B) ELECTRIC ENERGY SYSTEMS AND STORAGE.—Develop, in partnership with industry—

(i) technologies for generators and transmission, distribution, and storage systems that combine high capacity with high efficiency (particularly for electric transmission facilities in rural and remote areas);

(ii) new transmission and distribution technologies, including flexible alternating current transmission systems, composite conductor materials, advanced protection devices, and controllers;

(iii) technologies for interconnection of distributed energy resources with electric power systems;

(iv) high-temperature superconducting materials for power delivery equipment such as transmission and distribution cables, transformers, and generators; and

(v) real-time transmission and distribution system control technologies that provide for continual exchange of information between generation, transmission, distribution, and end-user facilities.

(3) RENEWABLE ENERGY.—

(A) WIND POWER.—Develop, in partnership with industry, technologies and designs that will—

(i) reduce the cost of wind power by 40 percent by 2012 as compared to 2000; and

(ii) expand utilization of class 3 and 4 winds.

(B) PHOTOVOLTAICS.—Develop, in partnership with industry, total photovoltaic systems with installed costs of $5,000 per peak kilowatt by 2005 and $2000 per peak kilowatt by 2015.

(C) SOLAR THERMAL SYSTEMS.—Develop, in partnership with industry, solar power technologies (including baseload solar power) that combine high-efficiency and high-temperature receivers with advanced thermal storage and power cycles to accommodate peak loads and reduce lifecycle costs.

(D) GEOTHERMAL ENERGY.—Develop, in partnership with industry, technologies and processes based on advanced hydrothermal systems and advanced heat and power systems, including geothermal or ground source heat pump technology, with a specific focus on—

(i) improving exploration and characterization technology to increase the probability of drilling successful wells from 20 percent to 40 percent by 2010;

(ii) reducing the cost of drilling by 2008 to an average cost of $225 per foot;

(iii) developing enhanced geothermal systems technology with the potential to double the usable geothermal resource base, as compared to the date of enactment of this Act; and

(iv) reducing the cost of installing the ground loop of ground-source heat pumps by 30 percent by 2007 compared to the cost in 2000.

(E) BIOMASS-BASED POWER SYSTEMS.—Develop, in partnership with industry, integrated power generating systems, advanced conversion, and feedstock technologies capable of producing electric power that is cost-competitive with fossil-fuel generated electricity by 2010, through co-production of fuels, chemicals, and other products under subparagraph (F).

(F) BIOFUELS.—Develop, in partnership with industry, new and emerging technologies and biotechnology processes capable of making—

(i) gaseous and liquid biofuels that are price-competitive, by 2010, with gasoline or diesel in either internal combustion engines or fuel cells; and

(ii) biofuels, biobased polymers, and chemicals, including those derived from lignocellulosic feedstock, with particular emphasis on developing biorefineries that use enzyme-based processing systems.

(G) HYDROPOWER.—Develop, in partnership with industry, a new generation of turbine technologies that will increase generating capacity and be less damaging to fish and aquatic ecosystems.

(4) FOSSIL ENERGY.—

(A) POWER GENERATION.—Develop, in partnership with industry, technologies, including precombustion technologies, by 2015 with the capability of realizing—

(i) electricity generating efficiencies of 75 percent (lower heating value) for natural gas; and

(ii) widespread commercial application of combined heat and power with thermal efficiencies of more than 85 percent (higher heating value).

(B) OFFSHORE OIL AND GAS RESOURCES.—Develop, in partnership with industry, technologies to—

(i) extract methane hydrates in coastal waters of the United States; and

(ii) develop natural gas and oil reserves in the ultra-deepwater of the Central and Western Gulf of Mexico, with a focus on improving, while lowering costs and reducing environmental impacts, the safety and efficiency of—

(I) the recovery of ultra-deepwater resources; and

(II) sub-sea production technology used for such recovery.

(C) ONSHORE OIL AND GAS RESOURCES.—Advance the science and technology available to domestic onshore petroleum producers, particularly independent producers of oil or gas, through—

(i) advances in technology for exploration and production of domestic petroleum resources, particularly those not accessible with current technology;

(ii) improvement in the ability to extract hydrocarbons (including heavy oil) from known reservoirs and classes of reservoirs; and

(iii) development of technologies and practices that reduce the impact on the environment from petroleum exploration and production.

(D) TRANSPORTATION FUELS.—Increase the availability of transportation fuels by focusing research on—

(i) reducing the cost of producing transportation fuels from coal and natural gas; and

(ii) indirect liquefaction of coal and biomass.

(5) NUCLEAR ENERGY.—

(A) EXISTING REACTORS.—Support research to extend the lifetimes of existing United States nuclear power reactors, and increase their reliability while optimizing their current operations for greater efficiencies.

(B) ADVANCED REACTORS.—Develop, in partnership with industry—

(i) advanced, efficient, lower cost, and passively safe reactor designs;

(ii) proliferation-resistant and high-burnup nuclear fuels; and

(iii) technologies to minimize generation of radioactive materials and improve the management of nuclear waste.

(C) NUCLEAR SCIENTISTS AND ENGINEERS.—Attract new students and faculty to the nuclear sciences, nuclear engineering, and related fields (including health physics, nuclear medicine, nuclear chemistry, and radiochemistry).

(6) HYDROGEN.—Carry out programs related to hydrogen in the Fossil Fuel Program and the Nuclear Energy Program.

(b) REVIEW AND ASSESSMENT OF GOALS.—

(1) EVALUATION AND MODIFICATION.—Based on amounts appropriated and developments in science and technology, the Secretary shall evaluate the goals set forth in subsection (a) at least once every 5 years, and shall report to the Congress any proposed modifications to the goals.

(2) CONSULTATION.—In evaluating and proposing modifications to the goals as provided in paragraph (1), the Secretary shall solicit public input.

(3) PUBLIC COMMENT.—(A) After consultation under paragraph (2), the Secretary shall publish in the Federal Register a set of draft modifications to the goals for public comment.

(B) Not later than 60 days after the date of publication of draft modifications under subparagraph (A), and after consideration of any public comments received, the Secretary shall publish the final modifications, including a summary of the public comments received, in the Federal Register.

(4) EFFECTIVE DATE.—No modification to goals under this section shall take effect before the date which is 5 years after the date of enactment of this Act.

(c) EFFECT OF GOALS.—(1) Nothing in paragraphs (1) through (6) of subsection (a), or any subsequent modification to the goals therein pursuant to subsection (b), shall—

(A) create any new—

(i) authority for any Federal agency; or

(ii) requirement for any other person;

(B) be used by a Federal agency to support the establishment of regulatory standards or regulatory requirements; or

(C) alter the authority of the Secretary to make grants or other awards.

(2) Nothing in this subsection shall be construed to limit the authority of the Secretary to impose conditions on grants or other awards based on the goals in subsection (a) or any subsequent modification thereto.

**SEC. 20003. DEFINITIONS.**

For purposes of this division:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) DEPARTMENTAL MISSION.—The term ''departmental mission'' means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(3) INDEPENDENT PRODUCER OF OIL OR GAS.—

(A) IN GENERAL.—The term ''independent producer of oil or gas'' means any person who produces oil or gas other than a person to whom subsection (c) of section 613A of the Internal Revenue Code of 1986 does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d) of such Code.

(B) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of subparagraph (A), paragraphs (2) and (4) of section 613A(d) of the Internal Revenue Code of 1986 shall be applied by substituting ''calendar year'' for ''taxable year'' each place it appears in such paragraphs.

(4) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) JOINT VENTURE.—The term ''joint venture'' has the meaning given that term under section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301).

(6) NATIONAL LABORATORY.—The term ''National Laboratory'' means any of the following laboratories owned by the Department:

(A) Ames National Laboratory.

(B) Argonne National Laboratory.

(C) Brookhaven National Laboratory.

(D) Fermi National Laboratory.

(E) Idaho National Engineering and Environmental Laboratory.

(F) Lawrence Berkeley National Laboratory.

(G) Lawrence Livermore National Laboratory.

(H) Los Alamos National Laboratory.

(I) National Energy Technology Laboratory.

(J) National Renewable Energy Laboratory.

(K) Oak Ridge National Laboratory.

(L) Pacific Northwest National Laboratory.

(M) Princeton Plasma Physics Laboratory.

(N) Sandia National Laboratories.

(O) Thomas Jefferson National Accelerator Facility.

(7) NONMILITARY ENERGY LABORATORY.—The term ''nonmilitary energy laboratory'' means any of the following laboratories of the Department:

(A) Ames National Laboratory.

(B) Argonne National Laboratory.

(C) Brookhaven National Laboratory.

(D) Fermi National Laboratory.

(E) Lawrence Berkeley National Laboratory.

(F) Oak Ridge National Laboratory.

(G) Pacific Northwest National Laboratory.

(H) Princeton Plasma Physics Laboratory.

(I) Stanford Linear Accelerator Center.

(J) Thomas Jefferson National Accelerator Facility.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(9) SINGLE-PURPOSE RESEARCH FACILITY.—The term ''single-purpose research facility'' means any of the following primarily single-purpose entities owned by the Department:

(A) East Tennessee Technology Park.

(B) Fernald Environmental Management Project.

(C) Kansas City Plant.

(D) Nevada Test Site.

(E) New Brunswick Laboratory.

(F) Pantex Weapons Facility.

(G) Savannah River Technology Center.

(H) Stanford Linear Accelerator Center.

(I) Y–12 facility at Oak Ridge National Laboratory.

(J) Waste Isolation Pilot Plant.

(K) Any other similar organization of the Department designated by the Secretary that engages in technology transfer, partnering, or licensing activities.

## TITLE I—RESEARCH AND DEVELOPMENT

### Subtitle A—Energy Efficiency

### PART 1—AUTHORIZATION OF APPROPRIATIONS

**SEC. 21101. ENERGY EFFICIENCY.**

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) For fiscal year 2004, $616,000,000.

(2) For fiscal year 2005, $695,000,000.

(3) For fiscal year 2006, $772,000,000.

(4) For fiscal year 2007, $865,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) LIGHTING SYSTEMS.—For activities under section 21111, $50,000,000 for each of fiscal years 2004 through 2007.

(2) ELECTRIC MOTOR CONTROL TECHNOLOGY.—For activities under section 21122, $2,000,000 for each of fiscal years 2004 through 2007.

(3) SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.—For activities under section 21132—

(A) for fiscal year 2004, $4,000,000;

(B) for fiscal year 2005, $7,000,000;

(C) for fiscal year 2006, $7,000,000; and

(D) for fiscal year 2007, $7,000,000.

(4) ENERGY EFFICIENCY SCIENCE INITIATIVE.—For activities under section 21141—

(A) for fiscal year 2004, $20,000,000;

(B) for fiscal year 2005, $25,000,000;

(C) for fiscal year 2006, $30,000,000; and

(D) for fiscal year 2007, $35,000,000.

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for activities under section 21111, $50,000,000 for each of fiscal years 2008 through 2012.

(d) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated under this section may be used for—

(1) the promulgation and implementation of energy efficiency regulations;

(2) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act;

(3) the State Energy Program under part D of title III of the Energy Policy and Conservation Act; or

(4) the Federal Energy Management Program under part 3 of title V of the National Energy Conservation Policy Act.

### PART 2—LIGHTING SYSTEMS

**SEC. 21111. NEXT GENERATION LIGHTING INITIATIVE.**

(a) IN GENERAL.—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(b) OBJECTIVES.—The objectives of the initiative shall be—

(1) to develop, by 2012, advanced solid-state lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are—

(A) longer lasting;

(B) more energy-efficient; and

(C) cost-competitive;

(2) to develop an inorganic white light emitting diode that has an efficiency of 160 lumens per watt and a 10-year lifetime; and

(3) to develop an organic white light emitting diode with an efficiency of 100 lumens per watt with a 5-year lifetime that—

(A) illuminates over a full color spectrum;

(B) covers large areas over flexible surfaces; and

(C) does not contain harmful pollutants, such as mercury, typical of fluorescent lamps.

(c) FUNDAMENTAL RESEARCH.—

(1) CONSORTIUM.—The Secretary shall carry out the fundamental research activities of the Next Generation Lighting Initiative through a private consortium (which may include private firms, trade associations and institutions of higher education), which the Secretary shall select through a competitive process. Each proposed consortium shall submit to the Secretary such information as the Secretary may require, including a program plan agreed to by all participants of the consortium.

(2) JOINT VENTURE.—The consortium shall be structured as a joint venture among the participants of the consortium. The Secretary shall serve on the governing council of the consortium.

(3) ELIGIBILITY.—To be eligible to be selected as the consortium under paragraph (1), an applicant must be broadly representative of United States solid-state lighting research, development, and manufacturing expertise as a whole.

(4) GRANTS.—(A) The Secretary shall award grants for fundamental research to the consortium, which the consortium may disburse to researchers, including those who are not participants of the consortium.

(B) To receive a grant, the consortium must provide a description to the Secretary of the proposed research and list the parties that will receive funding.

(C) Grants shall be matched by the consortium pursuant to section 21802.

(5) NATIONAL LABORATORIES.—National Laboratories may participate in the research described in this section, and may receive funds from the consortium.

(6) INTELLECTUAL PROPERTY.—Participants in the consortium and the Federal Government shall have royalty-free nonexclusive rights to use intellectual property derived from research funded pursuant to this subsection.

(d) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.—The Secretary shall carry out the development, demonstration, and commercial application activities of the Next Generation Lighting Initiative through awards to private firms, trade associations, and institutions of higher education. In selecting awardees, the Secretary may give preference to members of the consortium selected pursuant to subsection (c).

(e) PLANS AND ASSESSMENTS.—(1) The consortium shall formulate an annual operating plan which shall include research priorities, technical milestones, and plans for technology transfer, and which shall be subject to approval by the Secretary.

(2) The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Next Generation Lighting Initiative. The Academy shall review the research priorities, technical milestones, and plans for technology transfer established under paragraph (1) and evaluate the progress toward achieving them. The Secretary shall consider the results of such reviews in evaluating the plans submitted under paragraph (1).

(f) AUDIT.—The Secretary shall retain an independent, commercial auditor to perform an audit of the consortium to determine the extent to which the funds authorized by this section have been expended in a manner consistent with the purposes of this section. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to the Congress, along with a plan to remedy any deficiencies cited in the report.

(g) SUNSET.—The Next Generation Lighting Initiative shall terminate no later than September 30, 2013.

(h) DEFINITIONS.—As used in this section:

(1) ADVANCED SOLID-STATE LIGHTING.—The term ''advanced solid-state lighting'' means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) FUNDAMENTAL RESEARCH.—The term ''fundamental research'' includes basic research on both solid-state materials and manufacturing processes.

(3) INORGANIC WHITE LIGHT EMITTING DIODE.—The term ''inorganic white light emitting diode'' means an inorganic semiconducting package that produces white light using externally applied voltage.

(4) ORGANIC WHITE LIGHT EMITTING DIODE.—The term ''organic white light emitting diode'' means an organic semiconducting compound that produces white light using externally applied voltage.

## PART 3—BUILDINGS

### SEC. 21121. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) INTERAGENCY GROUP.—Not later than 3 months after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an interagency group to develop, in coordination with the advisory committee established under subsection (e), a National Building Performance Initiative (in this section referred to as the ''Initiative''). The interagency group shall be cochaired by appropriate officials of the Department and the Department of Commerce, who shall jointly arrange for the provision of necessary administrative support to the group.

(b) INTEGRATION OF EFFORTS.—The Initiative, working with the National Institute of Building Sciences, shall integrate Federal, State, and voluntary private sector efforts to reduce the costs of construction, operation, maintenance, and renovation of commercial, industrial, institutional, and residential buildings.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the interagency group shall submit to Congress a plan for carrying out the appropriate Federal role in the Initiative. The plan shall be based on whole building principles and shall include—

(1) research, development, demonstration, and commercial application of systems and materials for new construction and retrofit relating to the building envelope and building system components; and

(2) the collection, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public.

(d) DEPARTMENT OF ENERGY ROLE.—Within the Federal portion of the Initiative, the Department shall be the lead agency for all aspects of building performance related to use and conservation of energy.

(e) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish an advisory committee to—

(A) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(B) review and provide recommendations on the plan described in subsection (c).

(2) MEMBERSHIP.—Membership of the advisory committee shall include representatives with a broad range of appropriate expertise, including expertise in—

(A) building research and technology;

(B) architecture, engineering, and building materials and systems; and

(C) the residential, commercial, and industrial sectors of the construction industry.

(f) CONSTRUCTION.—Nothing in this section provides any Federal agency with new authority to regulate building performance.

### SEC. 21122. ELECTRIC MOTOR CONTROL TECHNOLOGY.

The Secretary shall conduct a research, development, demonstration, and commercial application program on advanced control devices to improve the energy efficiency of electric motors used in heating, ventilation, air conditioning, and comparable systems.

## PART 4—VEHICLES

### SEC. 21131. DEFINITIONS.

For purposes of this part, the term—

(1) ''battery'' means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity; and

(2) ''associated equipment'' means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

### SEC. 21132. ESTABLISHMENT OF SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) PROGRAM.—The Secretary shall establish and conduct a research, development, demonstration, and commercial application program for the secondary use of batteries. Such program shall be—

(1) designed to demonstrate the use of batteries in secondary application, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and evaluate the necessary supporting infrastructure, including reuse and disposal of batteries; and

(3) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(b) SOLICITATION.—(1) Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(2)(A) Proposals submitted in response to a solicitation under this section shall include—

(i) a description of the project, including the batteries to be used in the project, the proposed locations and applications for the batteries, the number of batteries to be demonstrated, and the type, characteristics, and estimated life-cycle costs of the batteries compared to other energy storage devices currently used;

(ii) the contribution, if any, of State or local governments and other persons to the demonstration project;

(iii) the type of associated equipment and supporting infrastructure to be demonstrated; and

(iv) any other information the Secretary considers appropriate.

(B) If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the batteries and associated equipment.

(c) SELECTION OF PROPOSALS.—(1)(A) The Secretary shall, not later than 3 months after the closing date established by the Secretary for receipt of proposals under subsection (b), select at least 5 proposals to receive financial assistance under this section.

(B) No one project selected under this section shall receive more than 25 percent of the funds authorized under this section. No more than 3 projects selected under this section shall demonstrate the same battery type.

(2) In selecting a proposal under this section, the Secretary shall consider—

(A) the ability of the proposer to acquire the batteries and associated equipment and to successfully manage and conduct the demonstration project, including satisfying the reporting requirements set forth in paragraph (3)(B);

(B) the geographic and climatic diversity of the projects selected;

(C) the long-term technical and competitive viability of the batteries to be used in the project and of the original manufacturer of such batteries;

(D) the suitability of the batteries for their intended uses;

(E) the technical performance of the batteries, including the expected additional useful life and the batteries' ability to retain energy;

(F) the environmental effects of the use of and disposal of the batteries proposed to be used in the project selected;

(G) the extent of involvement of State or local government and other persons in the demonstration project and whether such involvement will—

(i) permit a reduction of the Federal cost share per project; or

(ii) otherwise be used to allow the Federal contribution to be provided to demonstrate a greater number of batteries; and

(H) such other criteria as the Secretary considers appropriate.

(3) CONDITIONS.—The Secretary shall require that—

(A) as a part of a demonstration project, the users of the batteries provide to the proposer information regarding the operation, maintenance, performance, and use of the batteries, and the proposer provide such information to the battery manufacturer, for 3 years after the beginning of the demonstration project;

(B) the proposer provide to the Secretary such information regarding the operation, maintenance, performance, and use of the batteries as the Secretary may request;

(C) the proposer provide to the Secretary such information regarding the disposal of the batteries as the Secretary may require to ensure that the proposer disposes of the batteries in accordance with applicable law; and

(D) the proposer provide at least 50 percent of the costs associated with the proposal.

## PART 5—ENERGY EFFICIENCY SCIENCE INITIATIVE

### SEC. 21141. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) REPORT.—The Secretary shall submit to the Congress, along with the President's annual budget request under section 1105(a) of title 31, United States Code, a report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

## PART 6—ADVANCED ENERGY TECHNOLOGY TRANSFER CENTERS

### SEC. 21151. ADVANCED ENERGY TECHNOLOGY TRANSFER CENTERS.

(a) GRANTS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall make grants to nonprofit institutions, State and local governments, or universities (or consortia thereof), to establish a geographically dispersed network of Advanced Energy Technology Transfer Centers, to be located in areas the Secretary determines have the greatest need of the services of such Centers.

(b) ACTIVITIES.—(1) Each Center shall operate a program to encourage demonstration and commercial application of advanced energy methods and technologies through education and outreach to building and industrial professionals, and to other individuals and organizations with an interest in efficient energy use.

(2) Each Center shall establish an advisory panel to advise the Center on how best to accomplish the activities under paragraph (1).

(c) APPLICATION.—A person seeking a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. The Secretary may award a grant under this section to an entity already in existence if the entity is otherwise eligible under this section.

(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the following criteria, at a minimum:

(1) The ability of the applicant to carry out the activities in subsection (b).

(2) The extent to which the applicant will coordinate the activities of the Center with other entities, such as State and local governments, utilities, and educational and research institutions.

(e) MATCHING FUNDS.—The Secretary shall require a non-Federal matching requirement of at least 50 percent of the costs of establishing and operating each Center.

(f) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to advise the Secretary on the establishment of Centers under this section. The advisory committee shall be composed of individuals with expertise in the area of advanced energy methods and technologies, including at least 1 representative from—

(1) State or local energy offices;

(2) energy professionals;

(3) trade or professional associations;

(4) architects, engineers, or construction professionals;

(5) manufacturers;

(6) the research community; and

(7) nonprofit energy or environmental organizations.

(g) DEFINITIONS.—For purposes of this section—

(1) the term ''advanced energy methods and technologies'' means all methods and technologies that promote energy efficiency and conservation, including distributed generation technologies, and life-cycle analysis of energy use;

(2) the term ''Center'' means an Advanced Energy Technology Transfer Center established pursuant to this section; and

(3) the term ''distributed generation'' means an electric power generation facility that is designed to serve retail electric consumers at or near the facility site.

## Subtitle B—Distributed Energy and Electric Energy Systems

## PART 1—AUTHORIZATION OF APPROPRIATIONS

### SEC. 21201. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for distributed energy and electric energy systems activities, including activities authorized under this subtitle:

(1) For fiscal year 2004, $190,000,000.

(2) For fiscal year 2005, $200,000,000.

(3) For fiscal year 2006, $220,000,000.

(4) For fiscal year 2007, $240,000,000.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From amounts authorized under subsection (a), the following sums shall be available for activities under section 21213:

(1) For fiscal year 2004, $5,000,000.

(2) For fiscal year 2005, $5,500,000.

(3) For fiscal year 2006, $6,000,000.

(4) For fiscal year 2007, $6,500,000.

## PART 2—DISTRIBUTED POWER

### SEC. 21211. STRATEGY.

(a) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and transmit to the Congress a strategy for a comprehensive research, development, demonstration, and commercial application program to develop hybrid distributed power systems that combine—

(1) one or more renewable electric power generation technologies of 10 megawatts or less located near the site of electric energy use; and

(2) nonintermittent electric power generation technologies suitable for use in a distributed power system.

(b) CONTENTS.—The strategy shall—

(1) identify the needs best met with such hybrid distributed power systems and the technological barriers to the use of such systems;

(2) provide for the development of methods to design, test, integrate into systems, and operate such hybrid distributed power systems;

(3) include, as appropriate, research, development, demonstration, and commercial application on related technologies needed for the adoption of such hybrid distributed power systems, including energy storage devices and environmental control technologies;

(4) include research, development, demonstration, and commercial application of interconnection technologies for communications and controls of distributed generation architectures, particularly technologies promoting real-time response to power market information and physical conditions on the electrical grid; and

(5) describe how activities under the strategy will be integrated with other research, development, demonstration, and commercial application activities supported by the Department of Energy related to electric power technologies.

### SEC. 21212. HIGH POWER DENSITY INDUSTRY PROGRAM.

The Secretary shall establish a comprehensive research, development, demonstration, and commercial application program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

**SEC. 21213. MICRO-COGENERATION ENERGY TECHNOLOGY.**

The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology. The consortia shall explore the use of small-scale combined heat and power in residential heating appliances.

**PART 3—TRANSMISSION SYSTEMS**

**SEC. 21221. TRANSMISSION INFRASTRUCTURE SYSTEMS RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.**

(a) PROGRAM AUTHORIZED.—The Secretary shall develop and implement a comprehensive research, development, demonstration, and commercial application program to promote improved reliability and efficiency of electrical transmission systems. Such program may include—

(1) advanced energy technologies, materials, and systems;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) any other infrastructure technologies, as appropriate; and

(9) technology transfer and education.

(b) PROGRAM PLAN.—Not later than 1 year after the date of the enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. In preparing the program plan, the Secretary shall consult with utilities, energy services providers, manufacturers, institutions of higher education, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

(c) REPORT.—Not later than 2 years after the transmittal of the plan under subsection (b), the Secretary shall transmit a report to Congress describing the progress made under this section and identifying any additional resources needed to continue the development and commercial application of transmission infrastructure technologies.

**Subtitle C—Renewable Energy**

**PART 1—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 21301. RENEWABLE ENERGY.**

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for renewable energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) For fiscal year 2004, $380,000,000.

(2) For fiscal year 2005, $420,000,000.

(3) For fiscal year 2006, $460,000,000.

(4) For fiscal year 2007, $499,000,000.

(b) BIOENERGY.—From the amounts authorized under subsection (a), the following sums are authorized to be appropriated to carry out section 21311 and section 21706:

(1) For fiscal year 2004, $135,425,000.

(2) For fiscal year 2005, $155,600,000.

(3) For fiscal year 2006, $167,650,000.

(4) For fiscal year 2007, $180,000,000.

(c) PUBLIC BUILDINGS.—From the amounts authorized under subsection (a), $30,000,000 for each of the fiscal years 2004 through 2007 are authorized to be appropriated to carry out section 21322.

(d) LIMITS ON USE OF FUNDS.—

(1) EXCLUSION.—None of the funds authorized to be appropriated under this section may be used for Renewable Support and Implementation.

(2) BIOENERGY.—Of the funds authorized under subsection (b), not less than $5,000,000 for each fiscal year shall be made available for grants to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions.

(3) RURAL AND REMOTE LOCATIONS.—In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall demonstrate the use of advanced wind power technology, biomass, geothermal energy systems, and other renewable energy technologies to assist in delivering electricity to rural and remote locations.

(4) REGIONAL FIELD VERIFICATION.—Of the funds authorized under subsection (a), not less than $4,000,000 for each fiscal year shall be made available for the Regional Field Verification Program of the Department.

(5) HYDROPOWER DEMONSTRATION PROJECTS.—Of the funds authorized under subsection (a), such sums as may be necessary shall be made available for demonstration projects of off-stream pumped storage hydropower.

**PART 2—BIOENERGY**

**SEC. 21311. BIOENERGY PROGRAMS.**

The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—

(1) biopower energy systems;

(2) biofuels;

(3) integrated applications of both biopower and biofuels;

(4) cross-cutting research and development in feedstocks; and

(5) economic analysis.

**PART 3—MISCELLANEOUS PROJECTS**

**SEC. 21321. MISCELLANEOUS PROJECTS.**

(a) PROGRAMS.—The Secretary shall conduct research, development, demonstration, and commercial application programs for—

(1) ocean energy, including wave energy;

(2) the combined use of renewable energy technologies with one another and with other energy technologies, including the combined use of wind power and coal gasification technologies; and

(3) hydrogen carrier fuels.

(b) STUDY.—(1) The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study on—

(A) the feasibility of various methods of renewable generation of energy from the ocean, including energy from waves, tides, currents, and thermal gradients; and

(B) the research, development, demonstration, and commercial application activities required to make marine renewable energy generation competitive with other forms of electricity generation.

(2) Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit the study to the Congress along with the Secretary's recommendations for implementing the results of the study.

**SEC. 21322. RENEWABLE ENERGY IN PUBLIC BUILDINGS.**

(a) DEMONSTRATION AND TECHNOLOGY TRANSFER PROGRAM.—The Secretary shall establish a program for the demonstration of innovative technologies for solar and other renewable energy sources in buildings owned or operated by a State or local government, and for the dissemination of information resulting from such demonstration to interested parties.

(b) LIMIT ON FEDERAL FUNDING.—The Secretary shall provide under this section no more than 40 percent of the incremental costs of the solar or other renewable energy source project funded.

(c) REQUIREMENT.—As part of the application for awards under this section, the Secretary shall require all applicants—

(1) to demonstrate a continuing commitment to the use of solar and other renewable energy sources in buildings they own or operate; and

(2) to state how they expect any award to further their transition to the significant use of renewable energy.

**Subtitle D—Nuclear Energy**

**PART 1—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 21401. NUCLEAR ENERGY.**

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for nuclear energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) For fiscal year 2004, $388,000,000.

(2) For fiscal year 2005, $416,000,000.

(3) For fiscal year 2006, $445,000,000.

(4) For fiscal year 2007, $474,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) NUCLEAR INFRASTRUCTURE SUPPORT.—For activities under section 21411(e)—

(A) for fiscal year 2004, $125,000,000;

(B) for fiscal year 2005, $130,000,000;

(C) for fiscal year 2006, $135,000,000; and

(D) for fiscal year 2007, $140,000,000.

(2) ADVANCED FUEL RECYCLING PROGRAM.—For activities under section 21421—

(A) for fiscal year 2004, $80,000,000;

(B) for fiscal year 2005, $93,000,000;

(C) for fiscal year 2006, $106,000,000; and

(D) for fiscal year 2007, $120,000,000.

(3) UNIVERSITY PROGRAMS.—For activities under section 21431—

(A) for fiscal year 2004, $35,200,000, of which—

(i) $3,000,000 shall be for activities under subsection (b)(1) of that section;

(ii) $4,275,000 shall be for activities under subsection (b)(2) of that section;

(iii) $8,000,000 shall be for activities under subsection (b)(3) of that section;

(iv) $500,000 shall be for activities under subsection (b)(5) of that section;

(v) $7,000,000 shall be for activities under subsection (c)(1) of that section;

(vi) $700,000 shall be for activities under subsection (c)(2) of that section;

(vii) $10,000,000 shall be for activities under subsection (c)(3) of that section;

(viii) $1,000,000 shall be for activities under subsection (d)(1) of that section; and

(ix) $725,000 shall be for activities under subsection (d)(2) of that section;

(B) for fiscal year 2005, $44,350,000, of which—

(i) $3,100,000 shall be for activities under subsection (b)(1) of that section;

(ii) $6,275,000 shall be for activities under subsection (b)(2) of that section;

(iii) $12,000,000 shall be for activities under subsection (b)(3) of that section;

(iv) $550,000 shall be for activities under subsection (b)(5) of that section;

(v) $7,500,000 shall be for activities under subsection (c)(1) of that section;

(vi) $1,100,000 shall be for activities under subsection (c)(2) of that section;

(vii) $12,000,000 shall be for activities under subsection (c)(3) of that section;

(viii) $1,100,000 shall be for activities under subsection (d)(1) of that section; and

(ix) $725,000 shall be for activities under subsection (d)(2) of that section;

(C) for fiscal year 2006, $49,200,000, of which—

(i) $3,200,000 shall be for activities under subsection (b)(1) of that section;

(ii) $7,150,000 shall be for activities under subsection (b)(2) of that section;

(iii) $13,000,000 shall be for activities under subsection (b)(3) of that section;

(iv) $600,000 shall be for activities under subsection (b)(5) of that section;

(v) $8,000,000 shall be for activities under subsection (c)(1) of that section;

(vi) $1,200,000 shall be for activities under subsection (c)(2) of that section;

(vii) $14,000,000 shall be for activities under subsection (c)(3) of that section;

(viii) $1,200,000 shall be for activities under subsection (d)(1) of that section; and

(ix) $850,000 shall be for activities under subsection (d)(2) of that section; and

(D) for fiscal year 2007, $54,950,000, of which—

(i) $3,200,000 shall be for activities under subsection (b)(1) of that section;

(ii) $8,150,000 shall be for activities under subsection (b)(2) of that section;

(iii) $15,000,000 shall be for activities under subsection (b)(3) of that section;

(iv) $650,000 shall be for activities under subsection (b)(5) of that section;

(v) $8,500,000 shall be for activities under subsection (c)(1); of that section;

(vi) $1,300,000 shall be for activities under subsection (c)(2) of that section;

(vii) $16,000,000 shall be for activities under subsection (c)(3) of that section;

(viii) $1,300,000 shall be for activities under subsection (d)(1) of that section; and

(ix) $850,000 shall be for activities under subsection (d)(2) of that section.

(c) LIMIT ON USE OF FUNDS.—None of the funds authorized under this section may be used for decommissioning the Fast Flux Test Facility.

## PART 2—NUCLEAR ENERGY RESEARCH PROGRAMS

### SEC. 21411. NUCLEAR ENERGY RESEARCH PROGRAMS.

(a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The Secretary shall carry out a Nuclear Energy Research Initiative for research and development related to nuclear energy.

(b) NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.—The Secretary shall carry out a Nuclear Energy Plant Optimization Program to support research and development activities addressing reliability, availability, productivity, and component aging in existing nuclear power plants.

(c) NUCLEAR POWER 2010 PROGRAM.—The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations in the October 2001 report entitled ‘‘A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010’’ issued by the Nuclear Energy Research Advisory Committee of the Department. The Program shall—

(1) rely on the expertise and capabilities of the National Laboratories in the areas of advanced nuclear fuels cycles and fuels testing;

(2) pursue an approach that considers a variety of reactor designs;

(3) include participation of international collaborators in research, development, and design efforts as appropriate; and

(4) encourage industry participation.

(d) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan and to support research and development necessary to make an informed technical decision about the most promising candidates for eventual commercial application. The Initiative shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(1) are economically competitive with other electric power generation plants;

(2) have higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;

(3) use fuels that are proliferation resistant and have substantially reduced production of high-level waste per unit of output; and

(4) utilize improved instrumentation.

(e) NUCLEAR INFRASTRUCTURE SUPPORT.—The Secretary shall develop and implement a strategy for the facilities of the Office of Nuclear Energy, Science, and Technology and shall transmit a report containing the strategy along with the President’s budget request to the Congress for fiscal year 2005. Such strategy shall provide a cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility upgrades and modifications; and

(4) building new facilities.

## PART 3—ADVANCED FUEL RECYCLING

### SEC. 21421. ADVANCED FUEL RECYCLING PROGRAM.

(a) IN GENERAL.—The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research and development program to evaluate proliferation-resistant fuel recycling and transmutation technologies which minimize environmental or public health and safety impacts as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Secretary’s Nuclear Energy Research Advisory Committee or other independent entity, as appropriate. Opportunities to enhance progress of this program through international cooperation should be sought.

(b) REPORTS.—The Secretary shall report on the activities of the advanced fuel recycling technology research and development program, as part of the Department’s annual budget submission.

## PART 4—UNIVERSITY PROGRAMS

### SEC. 21431. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) ESTABLISHMENT.—The Secretary shall support a program to invest in human resources and infrastructure in the nuclear sciences and engineering and related fields (including health physics and nuclear and radiochemistry), consistent with departmental missions related to civilian nuclear research and development.

(b) DUTIES.—In carrying out the program under this section, the Secretary shall—

(1) establish a graduate and undergraduate fellowship program to attract new and talented students;

(2) establish a Junior Faculty Research Initiation Grant Program to assist institutions of higher education in recruiting and retaining new faculty in the nuclear sciences and engineering;

(3) support fundamental nuclear sciences and engineering research through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research among industry, National Laboratories, and institutions of higher education through the Nuclear Energy Research Initiative; and

(5) support communication and outreach related to nuclear science and engineering.

(c) STRENGTHENING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—Activities under this section may include—

(1) converting research reactors currently using high-enrichment fuels to low-enrichment fuels, upgrading operational instrumentation, and sharing of reactors among institutions of higher education;

(2) providing technical assistance, in collaboration with the United States nuclear industry, in relicensing and upgrading training reactors as part of a student training program; and

(3) providing funding, through the Innovations in Nuclear Infrastructure and Education Program, for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY-NATIONAL LABORATORY INTERACTIONS.—The Secretary shall develop—

(1) a sabbatical fellowship program for professors at institutions of higher education to spend extended periods of time at National Laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments.

The Secretary may provide fellowships for students to spend time at National Laboratories in the area of nuclear science with a member of the Laboratory staff acting as a mentor.

(e) OPERATING AND MAINTENANCE COSTS.—Funding for a research project provided under this section may be used to offset a portion of the operating and maintenance costs of a research reactor at an institution of higher education used in the research project.

## PART 5—GEOLOGICAL ISOLATION OF SPENT FUEL

### SEC. 21441. GEOLOGICAL ISOLATION OF SPENT FUEL.

The Secretary shall conduct a study to determine the feasibility of deep borehole disposal of spent nuclear fuel and high-level radioactive waste. The study shall emphasize geological, chemical, and hydrological characterization of, and design of engineered structures for, deep borehole environments. Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit the study to the Congress.

## Subtitle E—Fossil Energy

## PART 1—AUTHORIZATION OF APPROPRIATIONS

### SEC. 21501. FOSSIL ENERGY.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for fossil energy research, development, demonstration, and commercial application activities, other than those described in subsection (b), including activities authorized under this subtitle but not including activities authorized under division E:

(1) For fiscal year 2004, $530,000,000.

(2) For fiscal year 2005, $556,000,000.

(3) For fiscal year 2006, $583,000,000.

(4) For fiscal year 2007, $611,000,000.

No less than 60 percent of the amount appropriated for each fiscal year under this subsection shall be available for activities related to the coal research program under section 21511(a).

(b) ULTRA-DEEPWATER AND UNCONVENTIONAL RESOURCES.—

(1) OIL AND GAS LEASE INCOME.—For each of fiscal years 2004 through 2010, from any royalties, rents, and bonuses derived from Federal onshore and offshore oil and gas leases

issued under the Outer Continental Shelf Lands Act and the Mineral Leasing Act which are deposited in the Treasury, and after distribution of any such funds as described in paragraph (2), an amount equal to 7.5 percent of the amount of royalties, rents, and bonuses derived from those leases deposited in the Treasury shall be deposited into the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund (in this subsection referred to as the Fund). For purposes of this subsection, the term ''royalties'' excludes proceeds from the sale of royalty production taken in kind and royalty production that is transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)). Monies in the Fund shall be available to the Secretary for obligation under part 3, without fiscal year limitation, to the extent provided in advance in appropriations Acts.

(2) PRIOR DISTRIBUTIONS.—The distributions described in paragraph (1) are those required by law—

(A) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

(B) to other funds receiving monies from Federal oil and gas leasing programs, including—

(i) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(ii) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5(c)); and

(iii) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h).

(3) ALLOCATION.—Amounts made available under this subsection in each fiscal year shall be allocated as follows:

(A) 67.5 percent shall be for ultra-deepwater natural gas and other petroleum activities under section 21522;

(B) 22.5 percent shall be for unconventional natural gas and other petroleum resource activities under section 21523; and

(C) 10 percent shall be for research complementary to research under section 21521(b)(1) through (3).

(c) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) FUEL CELL PROTON EXCHANGE MEMBRANE TECHNOLOGY.—For activities under section 21511(c)(2), $28,000,000 for each of the fiscal years 2004 through 2007.

(2) COAL MINING TECHNOLOGIES.—For activities under section 21512—

(A) for fiscal year 2004, $12,000,000; and

(B) for fiscal year 2005, $15,000,000.

(3) OFFICE OF ARCTIC ENERGY.—For the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), $25,000,000 for each of fiscal years 2004 through 2007.

(d) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), $25,000,000 for each of fiscal years 2008 through 2011.

(e) LIMITS ON USE OF FUNDS.—

(1) EXCLUSIONS.—None of the funds authorized under this section may be used for—

(A) Fossil Energy Environmental Restoration; or

(B) Import/Export Authorization.

(2) UNIVERSITY COAL MINING RESEARCH.—Of the funds authorized under subsection (c)(2), not less than 20 percent of the funds appropriated for each fiscal year shall be dedicated to research and development carried out at institutions of higher education.

## PART 2—RESEARCH PROGRAMS

**SEC. 21511. FOSSIL ENERGY RESEARCH PROGRAMS.**

(a) COAL RESEARCH.—(1) In addition to the Clean Coal Power Initiative authorized under division E, the Secretary shall conduct a program of research, development, demonstration, and commercial application for coal and power systems, including—

(A) central systems;

(B) sequestration research and development;

(C) fuels;

(D) advanced research; and

(E) advanced separation technologies.

(2) Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report providing—

(A) a detailed description of how proposals will be solicited and evaluated;

(B) a list of activities and technical milestones; and

(C) a description of how these activities will complement and not duplicate the Clean Coal Power Initiative authorized under division E.

(b) OIL AND GAS RESEARCH.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on oil and gas, including—

(1) exploration and production;

(2) gas hydrates;

(3) reservoir life and extension;

(4) transportation and distribution infrastructure;

(5) ultraclean fuels;

(6) heavy oil and oil shale; and

(7) environmental research.

(c) FUEL CELLS.—(1) The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(2) The demonstrations shall include fuel cell proton exchange membrane technology for commercial, residential, and transportation applications, and distributed generation systems, utilizing improved manufacturing production and processes.

(d) TECHNOLOGY TRANSFER.—To the maximum extent practicable, existing technology transfer mechanisms shall be used to implement oil and gas exploration and production technology transfer programs.

**SEC. 21512. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.**

(a) ESTABLISHMENT.—The Secretary shall carry out a program of research and development on coal mining technologies. The Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education with mining engineering departments, and other relevant entities.

(b) PROGRAM.—The research and development activities carried out under this section shall—

(1) be based on the mining research and development priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies; and

(2) expand mining research capabilities at institutions of higher education.

## PART 3—ULTRA-DEEPWATER AND UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCES

**SEC. 21521. PROGRAM AUTHORITY.**

(a) IN GENERAL.—The Secretary shall carry out a program under this part of research, development, demonstration, and commercial application of technologies for ultra-deepwater and unconventional natural gas and other petroleum resource exploration and production, including safe operations and environmental mitigation (including reduction of greenhouse gas emissions and sequestration of carbon).

(b) PROGRAM ELEMENTS.—The program under this part shall address the following areas, including improving safety and minimizing environmental impacts of activities within each area:

(1) Ultra-deepwater technology.

(2) Ultra-deepwater architecture.

(3) Unconventional natural gas and other petroleum resource exploration and production technology.

(c) LIMITATION ON LOCATION OF FIELD ACTIVITIES.—Field activities under the program under this part shall be carried out only—

(1) in—

(A) areas in the territorial waters of the United States not under any Outer Continental Shelf moratorium as of September 30, 2002;

(B) areas onshore in the United States on public land administered by the Secretary of the Interior available for oil and gas leasing, where consistent with applicable law and land use plans; and

(C) areas onshore in the United States on State or private land, subject to applicable law; and

(2) with the approval of the appropriate Federal or State land management agency or private land owner.

(d) RESEARCH AT NATIONAL ENERGY TECHNOLOGY LABORATORY.—The Secretary, through the National Energy Technology Laboratory, shall carry out research complementary to research under subsection (b).

(e) CONSULTATION WITH SECRETARY OF THE INTERIOR.—In carrying out this part, the Secretary shall consult regularly with the Secretary of the Interior.

**SEC. 21522. ULTRA-DEEPWATER PROGRAM.**

(a) IN GENERAL.—The Secretary shall carry out the activities under paragraphs (1) and (2) of section 21521(b), to maximize the value of the ultra-deepwater natural gas and other petroleum resources of the United States by increasing the supply of such resources and by reducing the cost and increasing the efficiency of exploration for and production of such resources, while improving safety and minimizing environmental impacts.

(b) ROLE OF THE SECRETARY.—The Secretary shall have ultimate responsibility for, and oversight of, all aspects of the program under this section.

(c) ROLE OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall contract with a consortium to—

(A) manage awards pursuant to subsection (f)(4);

(B) make recommendations to the Secretary for project solicitations;

(C) disburse funds awarded under subsection (f) as directed by the Secretary in accordance with the annual plan under subsection (e); and

(D) carry out other activities assigned to the program consortium by this section.

(2) LIMITATION.—The Secretary may not assign any activities to the program consortium except as specifically authorized under this section.

(3) CONFLICT OF INTEREST.—(A) The Secretary shall establish procedures—

(i) to ensure that each board member, officer, or employee of the program consortium who is in a decisionmaking capacity under subsection (f)(3) or (4) shall disclose to the Secretary any financial interests in, or financial relationships with, applicants for or recipients of awards under this section, including those of his or her spouse or minor child, unless such relationships or interests would be considered to be remote or inconsequential; and

(ii) to require any board member, officer, or employee with a financial relationship or interest disclosed under clause (i) to recuse himself or herself from any review under subsection (f)(3) or oversight under subsection (f)(4) with respect to such applicant or recipient.

(B) The Secretary may disqualify an application or revoke an award under this section if a board member, officer, or employee has failed to comply with procedures required under subparagraph (A)(ii).

(d) SELECTION OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall select the program consortium through an open, competitive process.

(2) MEMBERS.—The program consortium may include corporations, institutions of higher education, National Laboratories, or other research institutions. After submitting a proposal under paragraph (4), the program consortium may not add members without the consent of the Secretary.

(3) TAX STATUS.—The program consortium shall be an entity that is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986.

(4) SCHEDULE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall solicit proposals for the creation of the program consortium, which must be submitted not less than 180 days after the date of enactment of this Act. The Secretary shall select the program consortium not later than 240 days after such date of enactment.

(5) APPLICATION.—Applicants shall submit a proposal including such information as the Secretary may require. At a minimum, each proposal shall—

(A) list all members of the consortium;

(B) fully describe the structure of the consortium, including any provisions relating to intellectual property; and

(C) describe how the applicant would carry out the activities of the program consortium under this section.

(6) ELIGIBILITY.—To be eligible to be selected as the program consortium, an applicant must be an entity whose members collectively have demonstrated capabilities in planning and managing research, development, demonstration, and commercial application programs in natural gas or other petroleum exploration or production.

(7) CRITERION.—The Secretary may consider the amount of the fee an applicant proposes to receive under subsection (g) in selecting a consortium under this section.

(e) ANNUAL PLAN.—

(1) IN GENERAL.—The program under this section shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraph (2).

(2) DEVELOPMENT.—(A) Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the program consortium for each element to be addressed in the plan, including those described in paragraph (4). The Secretary may request that the program consortium submit its recommendations in the form of a draft annual plan.

(B) The Secretary shall submit the recommendations of the program consortium under subparagraph (A) to the Ultra-Deepwater Advisory Committee established under section 21525(a) for review, and such Advisory Committee shall provide to the Secretary written comments by a date determined by the Secretary. The Secretary may also solicit comments from any other experts.

(C) The Secretary shall consult regularly with the program consortium throughout the preparation of the annual plan.

(3) PUBLICATION.—The Secretary shall transmit to the Congress and publish in the Federal Register the annual plan, along with any written comments received under paragraph (2)(A) and (B). The annual plan shall be transmitted and published not later than 60 days after the date of enactment of an Act making appropriations for a fiscal year for the program under this section.

(4) CONTENTS.—The annual plan shall describe the ongoing and prospective activities of the program under this section and shall include—

(A) a list of any solicitations for awards that the Secretary plans to issue to carry out research, development, demonstration, or commercial application activities, including the topics for such work, who would be eligible to apply, selection criteria, and the duration of awards; and

(B) a description of the activities expected of the program consortium to carry out subsection (f)(4).

(f) AWARDS.—

(1) IN GENERAL.—The Secretary shall make awards to carry out research, development, demonstration, and commercial application activities under the program under this section. The program consortium shall not be eligible to receive such awards, but members of the program consortium may receive such awards.

(2) PROPOSALS.—The Secretary shall solicit proposals for awards under this subsection in such manner and at such time as the Secretary may prescribe, in consultation with the program consortium.

(3) REVIEW.—The Secretary shall make awards under this subsection through a competitive process, which shall include a review by individuals selected by the Secretary. Such individuals shall include, for each application, Federal officials, the program consortium, and non-Federal experts who are not board members, officers, or employees of the program consortium or of a member of the program consortium.

(4) OVERSIGHT.—(A) The program consortium shall oversee the implementation of awards under this subsection, consistent with the annual plan under subsection (e), including disbursing funds and monitoring activities carried out under such awards for compliance with the terms and conditions of the awards.

(B) Nothing in subparagraph (A) shall limit the authority or responsibility of the Secretary to oversee awards, or limit the authority of the Secretary to review or revoke awards.

(C) The Secretary shall provide to the program consortium the information necessary for the program consortium to carry out its responsibilities under this paragraph.

(g) FEE.—

(1) IN GENERAL.—To compensate the program consortium for carrying out its activities under this section, the Secretary shall provide to the program consortium a fee in an amount not to exceed 7.5 percent of the amounts awarded under subsection (f) for each fiscal year.

(2) ADVANCE.—The Secretary shall advance funds to the program consortium upon selection of the consortium, which shall be deducted from amounts to be provided under paragraph (1).

(h) AUDIT.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds provided to the program consortium, and funds provided under awards made under subsection (f), have been expended in a manner consistent with the purposes and requirements of this part. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to Congress, along with a plan to remedy any deficiencies cited in the report.

**SEC. 21523. UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCES PROGRAM.**

(a) IN GENERAL.—The Secretary shall carry out activities under section 21521(b)(3), to maximize the value of the onshore unconventional natural gas and other petroleum resources of the United States by increasing the supply of such resources and by reducing the cost and increasing the efficiency of exploration for and production of such resources, while improving safety and minimizing environmental impacts.

(b) AWARDS.—

(1) IN GENERAL.—The Secretary shall carry out this section through awards made through an open, competitive process.

(2) CONSORTIA.—In carrying out paragraph (1), the Secretary shall give preference to making awards to consortia.

(c) AUDIT.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds provided under awards made under this section have been expended in a manner consistent with the purposes and requirements of this part. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to Congress, along with a plan to remedy any deficiencies cited in the report.

(d) FOCUS AREAS.—Awards under this section may focus on areas including advanced coal-bed methane, deep drilling, natural gas production from tight sands, natural gas production from gas shales, innovative exploration and production techniques, enhanced recovery techniques, and environmental mitigation of unconventional natural gas and other petroleum resources exploration and production.

(e) ACTIVITIES BY THE UNITED STATES GEOLOGICAL SURVEY.—The Secretary of the Interior, through the United States Geological Survey, shall, where appropriate, carry out programs of long-term research to complement the programs under this section.

**SEC. 21524. ADDITIONAL REQUIREMENTS FOR AWARDS.**

(a) DEMONSTRATION PROJECTS.—An application for an award under this part for a demonstration project shall describe with specificity the intended commercial use of the technology to be demonstrated.

(b) FLEXIBILITY IN LOCATING DEMONSTRATION PROJECTS.—Subject to the limitation in section 21521(c), a demonstration project under this part relating to an ultra-deepwater technology or an ultra-deepwater architecture may be conducted in deepwater depths.

(c) INTELLECTUAL PROPERTY AGREEMENTS.—If an award under this part is made to a consortium (other than the program consortium), the consortium shall provide to the Secretary a signed contract agreed to by all members of the consortium describing the rights of each member to intellectual property used or developed under the award.

(d) TECHNOLOGY TRANSFER.—Each recipient of an award under this part shall conduct technology transfer activities, as appropriate, and outreach activities pursuant to section 21809.

(e) COST-SHARING REDUCTION FOR INDEPENDENT PRODUCERS.—In applying the cost-sharing requirements under section 21802 to an award under this part made solely to an independent producer of oil or gas, the Secretary may reduce the applicable non-Federal requirement in such section to a level not less than 10 percent of the cost of the project.

**SEC. 21525. ADVISORY COMMITTEES.**

(a) ULTRA-DEEPWATER ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this section, the Secretary shall establish an advisory committee to be known as the Ultra-Deepwater Advisory Committee.

(2) MEMBERSHIP.—The advisory committee under this subsection shall be composed of members appointed by the Secretary and including—

(A) individuals with extensive research experience or operational knowledge of offshore natural gas and other petroleum exploration and production;

(B) individuals broadly representative of the affected interests in ultra-deepwater natural gas and other petroleum production, including interests in environmental protection and safe operations;

(C) no individuals who are Federal employees; and

(D) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The advisory committee under this subsection shall—

(A) advise the Secretary on the development and implementation of programs under this part related to ultra-deepwater natural gas and other petroleum resources; and

(B) carry out section 21522(e)(2)(B).

(4) COMPENSATION.—A member of the advisory committee under this subsection shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(b) UNCONVENTIONAL RESOURCES TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this section, the Secretary shall establish an advisory committee to be known as the Unconventional Resources Technology Advisory Committee.

(2) MEMBERSHIP.—The advisory committee under this subsection shall be composed of members appointed by the Secretary and including—

(A) individuals with extensive research experience or operational knowledge of unconventional natural gas and other petroleum resource exploration and production, including independent oil and gas producers;

(B) individuals broadly representative of the affected interests in unconventional natural gas and other petroleum resource exploration and production, including interests in environmental protection and safe operations; and

(C) no individuals who are Federal employees.

(3) DUTIES.—The advisory committee under this subsection shall advise the Secretary on the development and implementation of activities under this part related to unconventional natural gas and other petroleum resources.

(4) COMPENSATION.—A member of the advisory committee under this subsection shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(c) PROHIBITION.—No advisory committee established under this section shall make recommendations on funding awards to consortia or for specific projects.

**SEC. 21526. LIMITS ON PARTICIPATION.**

(a) IN GENERAL.—An entity shall be eligible to receive an award under this part only if the Secretary finds—

(1) that the entity's participation in the program under this part would be in the economic interest of the United States; and

(2) that either—

(A) the entity is a United States-owned entity organized under the laws of the United States; or

(B) the entity is organized under the laws of the United States and has a parent entity organized under the laws of a country which affords—

(i) to United States-owned entities opportunities, comparable to those afforded to any other entity, to participate in any cooperative research venture similar to those authorized under this part;

(ii) to United States-owned entities local investment opportunities comparable to those afforded to any other entity; and

(iii) adequate and effective protection for the intellectual property rights of United States-owned entities.

(b) SENSE OF CONGRESS AND REPORT.—It is the Sense of the Congress that ultra-deepwater technology developed under this part is to be developed primarily for production of ultra-deepwater natural gas and other petroleum resources of the United States, and that this priority is to be reflected in the terms of grants, contracts, and cooperative agreements entered under this part. As part of the annual Departmental budget submission, the Secretary shall report on all steps taken to implement the policy described in this subsection.

**SEC. 21527. FUND.**

There is hereby established in the Treasury of the United States a separate fund to be known as the ''Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund''.

**SEC. 21528. TRANSFER OF ADVANCED OIL AND GAS EXPLORATION AND PRODUCTION TECHNOLOGIES.**

(a) ASSESSMENT.—The Secretary shall review technology programs throughout the Federal Government to assess the suitability of technologies developed thereunder for use in ultradeep drilling research, development, demonstration, and commercial application.

(b) TECHNOLOGY TRANSFER.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a solicitation seeking organizations knowledgeable of the technology needs of the ultradeep drilling industry. The Secretary shall select the most qualified applicant to manage a program to transfer technologies the Secretary determines suitable under subsection (a) to appropriate entities. The organization selected under section 21522(d) shall not be eligible for selection under this subsection.

(c) FUNDING.—From the funds available under section 21501(b)(3)(C), $1,000,000 shall be available to carry out this section in each of the fiscal years 2004 through 2007.

**SEC. 21529. SUNSET.**

The authority provided by this part shall terminate on September 30, 2010.

**SEC. 21530. DEFINITIONS.**

In this part:

(1) DEEPWATER.—The term ''deepwater'' means a water depth that is greater than 200 but less than 1,500 meters.

(2) PROGRAM CONSORTIUM.—The term ''program consortium'' means the consortium selected under section 21522(d).

(3) REMOTE OR INCONSEQUENTIAL.—The term ''remote or inconsequential'' has the meaning given that term in regulations issued by the Office of Government Ethics under section 208(b)(2) of title 18, United States Code.

(4) ULTRA-DEEPWATER.—The term ''ultra-deepwater'' means a water depth that is equal to or greater than 1,500 meters.

(5) ULTRA-DEEPWATER ARCHITECTURE.—The term ''ultra-deepwater architecture'' means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(6) ULTRA-DEEPWATER TECHNOLOGY.—The term ''ultra-deepwater technology'' means a discrete technology that is specially suited to address one or more challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(7) UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCE.—The term ''unconventional natural gas and other petroleum resource'' means natural gas and other petroleum resource located onshore in an economically inaccessible geological formation.

**Subtitle F—Science**

**PART 1—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 21601. SCIENCE.**

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle, including the amounts authorized under the amendment made by section 21634(c)(2)(C), and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, and research analysis and infrastructure support:

(1) For fiscal year 2004, $3,785,000,000.

(2) For fiscal year 2005, $4,153,000,000.

(3) For fiscal year 2006, $4,618,000,000.

(4) For fiscal year 2007, $5,310,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) FUSION ENERGY SCIENCES.—(A) For the Fusion Energy Sciences Program, excluding activities under sections 21611 and 21612—

(i) for fiscal year 2004, $276,000,000;

(ii) for fiscal year 2005, $300,000,000;.

(iii) for fiscal year 2006, $340,000,000; and

(iv) for fiscal year 2007, $350,000,000.

(B) For activities under section 21611 and for the project described in section 21612—

(i) for fiscal year 2004, $12,000,000;

(ii) for fiscal year 2005, $20,000,000;

(iii) for fiscal year 2006, $50,000,000; and

(iv) for fiscal year 2007, $75,000,000.

(2) SPALLATION NEUTRON SOURCE.—

(A) CONSTRUCTION.—For construction of the Spallation Neutron Source—

(i) for fiscal year 2004, $124,600,000;

(ii) for fiscal year 2005, $79,800,000; and

(iii) for fiscal year 2006, $41,100,000 for completion of construction.

(B) OTHER PROJECT FUNDING.—For other project costs (including research and development necessary to complete the project, preoperations costs, and capital equipment related to construction) of the Spallation Neutron Source, $103,279,000 for the period encompassing fiscal years 2003 through 2006, to remain available until expended through September 30, 2006.

(3) NANOTECHNOLOGY RESEARCH AND DEVELOPMENT.—For activities under section 21633—

(A) for fiscal year 2004, $265,000,000;

(B) for fiscal year 2005, $292,000,000;

(C) for fiscal year 2006, $322,000,000; and

(D) for fiscal year 2007, $355,000,000.

(4) SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.—For activities under section 21636—

(A) for fiscal year 2004, $800,000;

(B) for fiscal year 2005, $1,600,000;

(C) for fiscal year 2006, $2,000,000; and

(D) for fiscal year 2007, $2,000,000.

(5) GENOMES TO LIFE.—For activities under section 21641—

(A) $100,000,000 for fiscal year 2004; and

(B) such sums as may be necessary for fiscal years 2005 through 2007.

(c) LIMITS ON USE OF FUNDS.—Of the funds authorized under subsection (b)(1), no funds shall be available for implementation of the plan described in section 21612.

PART 2—FUSION ENERGY SCIENCES

SEC. 21611. ITER.

(a) IN GENERAL.—The United States is authorized to participate in ITER in accordance with the provisions of this section.

(b) AGREEMENT.—(1) The Secretary is authorized to negotiate an agreement for United States participation in ITER.

(2) Any agreement for United States participation in ITER shall, at a minimum—

(A) clearly define the United States financial contribution to construction and operating costs;

(B) ensure that the share of ITER's high-technology components manufactured in the United States is at least proportionate to the United States financial contribution to ITER;

(C) ensure that the United States will not be financially responsible for cost overruns in components manufactured in other ITER participating countries;

(D) guarantee the United States full access to all data generated by ITER;

(E) enable United States researchers to propose and carry out an equitable share of the experiments at ITER;

(F) provide the United States with a role in all collective decisionmaking related to ITER; and

(G) describe the process for discontinuing or decommissioning ITER and any United States role in those processes.

(c) PLAN.—The Secretary, in consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for the participation of United States scientists in ITER that shall include the United States research agenda for ITER, methods to evaluate whether ITER is promoting progress toward making fusion a reliable and affordable source of power, and a description of how work at ITER will relate to other elements of the United States fusion program. The Secretary shall request a review of the plan by the National Academy of Sciences.

(d) LIMITATION.—No funds shall be expended for the construction of ITER until the Secretary has transmitted to the Congress—

(1) the agreement negotiated pursuant to subsection (b) and 120 days have elapsed since that transmission;

(2) a report describing the management structure of ITER and providing a fixed dollar estimate of the cost of United States participation in the construction of ITER, and 120 days have elapsed since that transmission;

(3) a report describing how United States participation in ITER will be funded without reducing funding for other programs in the Office of Science, including other fusion programs, and 60 days have elapsed since that transmission; and

(4) the plan required by subsection (c) (but not the National Academy of Sciences review of that plan), and 60 days have elapsed since that transmission.

(e) DEFINITIONS.—In this section—

(1) the term ''construction'' means the physical construction of the ITER facility, and the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the ITER facility, but does not mean the design of the facility, equipment, or components; and

(2) the term ''ITER'' means the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003.

SEC. 21612. PLAN FOR FUSION EXPERIMENT.

(a) IN GENERAL.—If at any time during the negotiations on ITER, the Secretary determines that construction and operation of ITER is unlikely or infeasible, the Secretary shall send to Congress, as part of the budget request for the following year, a plan for implementing the domestic burning plasma experiment known as FIRE, including costs and schedules for such a plan. The Secretary shall refine such plan in full consultation with the Fusion Energy Sciences Advisory Committee and shall also transmit such plan to the National Academy of Sciences for review.

(b) DEFINITIONS.—As used in this section—

(1) the term ''ITER'' has the meaning given that term in section 21611; and

(2) the term ''FIRE'' means the Fusion Ignition Research Experiment, the fusion research experiment for which design work has been supported by the Department as a possible alternative burning plasma experiment in the event that ITER fails to move forward.

SEC. 21613. PLAN FOR FUSION ENERGY SCIENCES PROGRAM.

(a) DECLARATION OF POLICY.—It shall be the policy of the United States to conduct research, development, demonstration, and commercial application to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other nations in providing fusion energy for its own needs and the needs of other nations, including by demonstrating electric power or hydrogen production for the United States energy grid utilizing fusion energy at the earliest date possible.

(b) FUSION ENERGY PLAN.—

(1) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a plan for carrying out the policy set forth in subsection (a), including cost estimates, proposed budgets, potential international partners, and specific programs for implementing such policy.

(2) REQUIREMENTS OF PLAN.—Such plan shall also ensure that—

(A) existing fusion research facilities are more fully utilized;

(B) fusion science, technology, theory, advanced computation, modeling, and simulation are strengthened;

(C) new magnetic and inertial fusion research facilities are selected based on scientific innovation, cost effectiveness, and their potential to advance the goal of practical fusion energy at the earliest date possible;

(D) such facilities that are selected are funded at a cost-effective rate;

(E) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(F) inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development; and

(G) attractive alternative inertial and magnetic fusion energy approaches are more fully explored.

(3) REPORT ON FUSION MATERIALS AND TECHNOLOGY PROJECT.—In addition, the plan required by this subsection shall also address the status of, and to the degree possible, the costs and schedules for—

(A) the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

PART 3—SPALLATION NEUTRON SOURCE

SEC. 21621. DEFINITION.

For the purposes of this part, the term ''Spallation Neutron Source'' means Department Project 99–E–334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

SEC. 21622. REPORT.

The Secretary shall report on the Spallation Neutron Source as part of the Department's annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to estimated costs, and any changes in estimated project costs or schedule.

SEC. 21623. LIMITATIONS.

The total amount obligated by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed—

(1) $1,192,700,000 for costs of construction;

(2) $219,000,000 for other project costs; and

(3) $1,411,700,000 for total project cost.

PART 4—MISCELLANEOUS

SEC. 21631. FACILITY AND INFRASTRUCTURE SUPPORT FOR NONMILITARY ENERGY LABORATORIES.

(a) FACILITY POLICY.—The Secretary shall develop and implement a strategy for the nonmilitary energy laboratories and facilities of the Office of Science. Such strategy shall provide a cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility modifications; and

(4) building new facilities.

(b) REPORT.—

(1) TRANSMITTAL.—The Secretary shall prepare and transmit, along with the President's budget request to the Congress for fiscal year 2005, a report containing the strategy developed under subsection (a).

(2) CONTENTS.—For each nonmilitary energy laboratory and facility, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current ten-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facilities and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 21632. RESEARCH REGARDING PRECIOUS METAL CATALYSIS.

From the amounts authorized to be appropriated to the Secretary under section 21601, such sums as may be necessary for each of the fiscal years 2004, 2005, and 2006 may be used to carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis.

SEC. 21633. NANOTECHNOLOGY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary, acting through the Office of Science, shall implement a Nanotechnology Research and Development Program to promote nanotechnology research, development, demonstration, education, technology transfer, and commercial application activities as necessary to ensure continued United States leadership in nanotechnology across scientific and engineering disciplines.

(b) PROGRAM ACTIVITIES.—The activities of the Nanotechnology Research and Development Program shall be designed to—

(1) provide sustained support for nanotechnology research and development through—

(A) grants to individual investigators and interdisciplinary teams of investigators; and

(B) establishment of interdisciplinary research centers and advanced technology user facilities;

(2) ensure that solicitation and evaluation of proposals under the Program encourage interdisciplinary research;

(3) expand education and training of undergraduate and graduate students in interdisciplinary nanotechnology science and engineering;

(4) accelerate the commercial application of nanotechnology innovations in the private sector;

(5) ensure that societal and ethical concerns will be addressed as the technology is developed by—

(A) establishing a research program to identify societal and ethical concerns related to nanotechnology, and ensuring that the results of such research are widely disseminated; and

(B) integrating, insofar as possible, research on societal and ethical concerns with nanotechnology research and development; and

(6) ensure that the potential of nanotechnology to produce or facilitate the production of clean, inexpensive energy is realized by supporting nanotechnology energy applications research and development.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term ''nanotechnology'' means science and engineering aimed at creating materials, devices, and systems at the atomic and molecular level; and

(2) the term ''advanced technology user facility'' means a nanotechnology research and development facility supported, in whole or in part, by Federal funds that is open to all United States researchers on a competitive, merit-reviewed basis.

(d) REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall transmit to the Congress a report describing the projects to identify societal and ethical concerns related to nanotechnology and the funding provided to support these projects.

**SEC. 21634. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.**

(a) IN GENERAL.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation's computing capability across a diverse set of grand challenge computationally based science problems related to departmental missions.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) advance basic science through computation by developing software to solve grand challenge science problems on new generations of computing platforms;

(2) enhance the foundations for scientific computing by developing the basic mathematical and computing systems software needed to take full advantage of the computing capabilities of computers with peak speeds of 100 teraflops or more, some of which may be unique to the scientific problem of interest;

(3) enhance national collaboratory and networking capabilities by developing software to integrate geographically separated researchers into effective research teams and to facilitate access to and movement and analysis of large (petabyte) data sets;

(4) develop and maintain a robust scientific computing hardware infrastructure to ensure that the computing resources needed to address departmental missions are available; and

(5) explore new computing approaches and technologies that promise to advance scientific computing.

(c) HIGH-PERFORMANCE COMPUTING ACT OF 1991 AMENDMENTS.—The High-Performance Computing Act of 1991 is amended—

(1) in section 4 (15 U.S.C. 5503)—

(A) in paragraph (3)—

(i) by striking ''means'' and inserting ''and 'networking and information technology' mean''; and

(ii) by striking ''(including vector supercomputers and large scale parallel systems)''; and

(B) in paragraph (4), by striking ''packet switched''; and

(2) in section 203 (15 U.S.C. 5523)—

(A) in subsection (a), by striking all after ''As part of the'' and inserting ''Networking and Information Technology Research and Development Program, the Secretary of Energy shall conduct basic and applied research in networking and information technology, with emphasis on—

''(1) supporting fundamental research in the physical sciences and engineering, and energy applications;

''(2) providing supercomputer access and advanced communication capabilities and facilities to scientific researchers; and

''(3) developing tools for distributed scientific collaboration.'';

(B) in subsection (b), by striking ''Program'' and inserting ''Networking and Information Technology Research and Development Program''; and

(C) by amending subsection (e) to read as follows:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out the Networking and Information Technology Research and Development Program such sums as may be necessary for fiscal years 2004 through 2007.''.

(d) COORDINATION.—The Secretary shall ensure that the program under this section is integrated and consistent with—

(1) the Accelerated Strategic Computing Initiative of the National Nuclear Security Administration; and

(2) other national efforts related to advanced scientific computing for science and engineering.

(e) REPORT.—(1) Before undertaking any new initiative to develop new advanced architecture for high-speed computing, the Secretary, through the Director of the Office of Science, shall transmit a report to the Congress describing—

(A) the expected duration and cost of the initiative;

(B) the technical milestones the initiative is designed to achieve;

(C) how institutions of higher education and private firms will participate in the initiative; and

(D) why the goals of the initiative could not be achieved through existing programs.

(2) No funds may be expended on any initiative described in paragraph (1) until 30 days after the report required by that paragraph is transmitted to the Congress.

**SEC. 21635. NITROGEN FIXATION.**

The Secretary, acting through the Office of Science, shall support a program of research, development, demonstration, and commercial application on biological nitrogen fixation, including plant genomics research relevant to the development of commercial crop varieties with enhanced nitrogen fixation efficiency and ability.

**SEC. 21636. DEPARTMENT OF ENERGY SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a Department of Energy Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Department.

(2) COMPETITIVE PROCESS.—Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) SERVICE AGREEMENTS.—To carry out the Program the Secretary shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Department, for the period described in subsection (f)(1), in positions needed by the Department and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) SCHOLARSHIP ELIGIBILITY.—In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education in an academic program or field of study described in the list made available under subsection (d);

(2) be a United States citizen; and

(3) at the time of the initial scholarship award, not be a Federal employee as defined in section 2105 of title 5 of the United States Code.

(c) APPLICATION REQUIRED.—An individual seeking a scholarship under this section shall submit an application to the Secretary at such time, in such manner, and containing such information, agreements, or assurances as the Secretary may require.

(d) ELIGIBLE ACADEMIC PROGRAMS.—The Secretary shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized, and shall update the list as necessary.

(e) SCHOLARSHIP REQUIREMENT.—

(1) IN GENERAL.—The Secretary may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Secretary, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

(2) DURATION OF ELIGIBILITY.—An individual may not receive a scholarship under this section for more than 4 academic years, unless the Secretary grants a waiver.

(3) SCHOLARSHIP AMOUNT.—The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Secretary, but shall in no case exceed the cost of attendance.

(4) AUTHORIZED USES.—A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Secretary by regulation.

(5) CONTRACTS REGARDING DIRECT PAYMENTS TO INSTITUTIONS.—The Secretary may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f) PERIOD OF OBLIGATED SERVICE.—

(1) DURATION OF SERVICE.—The period of service for which an individual shall be obligated to serve as an employee of the Department is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

(2) SCHEDULE FOR SERVICE.—(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) The Secretary may defer the obligation of an individual to provide a period of service under paragraph (1) if the Secretary determines that such a deferral is appropriate. The Secretary shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(g) PENALTIES FOR BREACH OF SCHOLARSHIP AGREEMENT.—

(1) FAILURE TO COMPLETE ACADEMIC TRAINING.—Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Secretary by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Secretary when determined to be necessary, as established by regulation.

(2) FAILURE TO BEGIN OR COMPLETE THE SERVICE OBLIGATION OR MEET THE TERMS AND CONDITIONS OF DEFERMENT.—Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Secretary pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

(h) WAIVER OR SUSPENSION OF OBLIGATION.—

(1) DEATH OF INDIVIDUAL.—Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) IMPOSSIBILITY OR EXTREME HARDSHIP.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) DEFINITIONS.—In this section the following definitions apply:

(1) COST OF ATTENDANCE.—The term ''cost of attendance'' has the meaning given that term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*).

(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) PROGRAM.—The term ''Program'' means the Department of Energy Science and Technology Scholarship Program established under this section.

**PART 5—GENOMES TO LIFE**

**SEC. 21641. GENOMES TO LIFE.**

(a) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a research, development, and demonstration program in genetics, protein science, and computational biology of microbes and plants to support the energy and environmental mission of the Department.

(2) GRANTS.—The program shall support individual investigators and multidisciplinary teams of investigators through competitive, merit-reviewed grants.

(3) CONSULTATION.—In carrying out the program, the Secretary shall consult with other Federal agencies that conduct genetic and protein research.

(b) GOALS.—The program shall have the goal of developing technologies and methods based on the biological functions of microbes and plants that —

(1) can facilitate the production of fuels, including hydrogen;

(2) convert carbon dioxide to organic carbon; and

(3) detoxify soils and water at Department facilities contaminated with heavy metals and radiological materials.

(c) PLAN.—

(1) DEVELOPMENT OF PLAN.—Within one year after the date of enactment of this Act, the Secretary shall prepare and transmit to the Congress a research plan describing how the program authorized pursuant to this section will be undertaken to accomplish the program goals established in subsection (b).

(2) REVIEW OF PLAN.—The Secretary shall contract with the National Academy of Sciences to review the research plan developed under this subsection. The Secretary shall transmit the review to the Congress not later than 6 months after transmittal of the research plan under paragraph (1), along with the Secretary's response to the recommendations contained in the review.

(d) FACILITIES.—In carrying out the program under this section, the Secretary may construct, acquire, and operate facilities necessary to carry out this section.

(e) PROHIBITION ON BIOMEDICAL OR HUMAN SUBJECT RESEARCH.—(1) In carrying out this program, the Secretary shall not conduct biomedical research.

(2) Nothing in this section shall authorize the Secretary to conduct any research or demonstrations—

(A) on human cells or human subjects; or

(B) designed to have any application with respect to human cells or human subjects.

**Subtitle G—Energy and Environment**

**SEC. 21701. AUTHORIZATION OF APPROPRIATIONS.**

(a) UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.—The following sums are authorized to be appropriated to the Secretary to carry out activities under section 21702:

(1) For fiscal year 2004, $5,000,000.

(2) For fiscal year 2005, $6,000,000.

(3) For fiscal year 2006, $6,000,000.

(4) For fiscal year 2007, $6,000,000.

(b) WASTE REDUCTION AND USE OF ALTERNATIVES.—There are authorized to be appropriated to the Secretary to carry out activities under section 21703, $500,000 for fiscal year 2004.

**SEC. 21702. UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.**

(a) PROGRAM.—The Secretary shall establish a research, development, demonstration, and commercial application program to be carried out in collaboration with entities in Mexico and the United States to promote energy efficient, environmentally sound economic development along the United States-Mexico border.

(b) PROGRAM MANAGEMENT.—The program under subsection (a) shall be managed by the Department of Energy Carlsbad Environmental Management Field Office.

(c) TECHNOLOGY TRANSFER.—In carrying out projects and activities under this section, the Secretary shall assess the applicability of technology developed under the Environmental Management Science Program of the Department.

(d) INTELLECTUAL PROPERTY.—In carrying out this section, the Secretary shall comply with the requirements of any agreement entered into between the United States and Mexico regarding intellectual property protection.

**SEC. 21703. WASTE REDUCTION AND USE OF ALTERNATIVES.**

(a) GRANT AUTHORITY.—The Secretary is authorized to make a single grant to a qualified institution to examine and develop the feasibility of burning post-consumer carpet in cement kilns as an alternative energy source. The purposes of the grant shall include determining—

(1) how post-consumer carpet can be burned without disrupting kiln operations;

(2) the extent to which overall kiln emissions may be reduced;

(3) the emissions of air pollutants and other relevant environmental impacts; and

(4) how this process provides benefits to both cement kiln operations and carpet suppliers.

(b) QUALIFIED INSTITUTION.—For the purposes of subsection (a), a qualified institution is a research-intensive institution of higher education with demonstrated expertise in the fields of fiber recycling and logistical modeling of carpet waste collection and preparation.

**SEC. 21704. COAL GASIFICATION.**

The Secretary is authorized to provide loan guarantees for a project to produce energy from a plant using integrated gasification combined cycle technology of at least 400 megawatts in capacity that produces power at competitive rates in deregulated energy generation markets and that does not receive any subsidy (direct or indirect) from ratepayers.

**SEC. 21705. PETROLEUM COKE GASIFICATION.**

The Secretary is authorized to provide loan guarantees for at least one petroleum coke gasification polygeneration project.

**SEC. 21706. OTHER BIOPOWER AND BIOENERGY.**

The Secretary shall conduct a program to assist in the planning, design, and implementation of projects to convert rice straw, rice hulls, soybean matter, poultry fat, poultry waste, sugarcane bagasse, forest thinnings, and barley grain into biopower and biofuels.

**SEC. 21707. COAL TECHNOLOGY LOAN.**

There are authorized to be appropriated to the Secretary $125,000,000 to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE–FC22–91PC99544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

**SEC. 21708. FUEL CELL TEST CENTER.**

(a) STUDY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the results of a study of the establishment of a test center for next-generation fuel cells at an institution of higher education that has available a continuous source of hydrogen and access to the electric transmission grid. Such report shall include a conceptual design for such test center and a projection of the costs of establishing the test center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $500,000.

**SEC. 21709. FUEL CELL TRANSIT BUS DEMONSTRATION.**

The Secretary shall establish a transit bus demonstration program to make competitive, merit-based awards for five-year projects to demonstrate not more than 12 fuel cell transit buses (and necessary infrastructure) in three geographically dispersed localities. In selecting projects under this section, the Secretary shall give preference to projects that are most likely to mitigate congestion and improve air quality. There are authorized to be appropriated to the Secretary $10,000,000 for each of the fiscal years 2004 through 2007 for carrying out this section.

## Subtitle H—Management

**SEC. 21801. AVAILABILITY OF FUNDS.**

Funds authorized to be appropriated to the Department under this title shall remain available until expended.

**SEC. 21802. COST SHARING.**

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this title, for research and development programs carried out under this title, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this title, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this title to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

**SEC. 21803. MERIT REVIEW OF PROPOSALS.**

Awards of funds authorized under this title shall be made only after an impartial review of the scientific and technical merit of the proposals for such awards has been carried out by or for the Department.

**SEC. 21804. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.**

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—(1) The Secretary shall establish one or more advisory boards to review Department research, development, demonstration, and commercial application programs in the following areas:

(A) Energy efficiency.

(B) Renewable energy.

(C) Nuclear energy.

(D) Fossil energy.

(2) The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, and may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) OFFICE OF SCIENCE ADVISORY COMMITTEES.—

(1) UTILIZATION OF EXISTING COMMITTEES.—The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.

(2) SCIENCE ADVISORY COMMITTEE.—

(A) ESTABLISHMENT.—There shall be in the Office of Science a Science Advisory Committee that includes the chairs of each of the advisory committees described in paragraph (1).

(B) RESPONSIBILITIES.—The Science Advisory Committee shall—

(i) serve as the science advisor to the Assistant Secretary for Science created under section 209 of the Department of Energy Organization Act, as added by section 22001 of this Act;

(ii) advise the Assistant Secretary with respect to the well-being and management of the National Laboratories and single-purpose research facilities;

(iii) advise the Assistant Secretary with respect to education and workforce training activities required for effective short-term and long-term basic and applied research activities of the Office of Science; and

(iv) advise the Assistant Secretary with respect to the well being of the university research programs supported by the Office of Science.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of persons with appropriate expertise representing a diverse range of interests.

(d) MEETINGS AND PURPOSES.—Each advisory board under this section shall meet at least semi-annually to review and advise on the progress made by the respective research, development, demonstration, and commercial application program or programs. The advisory board shall also review the measurable cost and performance-based goals for such programs as established under section 20002, and the progress on meeting such goals.

(e) PERIODIC REVIEWS AND ASSESSMENTS.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of the programs authorized by this title, the measurable cost and performance-based goals for such programs as established under section 20002, if any, and the progress on meeting such goals. Such reviews and assessments shall be conducted every 5 years, or more often as the Secretary considers necessary, and the Secretary shall transmit to the Congress reports containing the results of all such reviews and assessments.

**SEC. 21805. IMPROVED COORDINATION OF TECHNOLOGY TRANSFER ACTIVITIES.**

(a) TECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall designate a Technology Transfer Coordinator to perform oversight of and policy development for technology transfer activities at the Department. The Technology Transfer Coordinator shall coordinate the activities of the Technology Transfer Working Group, and shall oversee the expenditure of funds allocated to the Technology Transfer Working Group, and shall coordinate with each technology partnership ombudsman appointed under section 11 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C. 7261c).

(b) TECHNOLOGY TRANSFER WORKING GROUP.—The Secretary shall establish a Technology Transfer Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices, including alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department, including those related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(c) TECHNOLOGY TRANSFER RESPONSIBILITY.—Nothing in this section shall affect the technology transfer responsibilities of Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980.

**SEC. 21806. SMALL BUSINESS ADVOCACY AND ASSISTANCE.**

(a) SMALL BUSINESS ADVOCATE.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to designate a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns, in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small business concerns training, mentoring, and clear, up-to-date information on how to participate in the procurement and collaborative research, including how to submit effective proposals, and information related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of such program to the Director of the National Laboratory or single-purpose research facility.

(b) ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to establish a program to provide small business concerns—

(1) assistance directed at making them more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facility; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the small business concern's products or services.

(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.

(d) DEFINITIONS.—In this section:

(1) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS.—The term ''socially and economically disadvantaged small business concerns'' has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).

**SEC. 21807. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.**

Not later than 2 years after the date of enactment of this section, the Secretary shall transmit a report to the Congress identifying any policies or procedures of a contractor operating a National Laboratory or single-purpose research facility that create disincentives to the temporary transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities.

**SEC. 21808. NATIONAL ACADEMY OF SCIENCES REPORT.**

Within 90 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences for the Academy to—

(1) conduct studies on—

(A) the obstacles to accelerating the commercial application of energy technology; and

(B) the adequacy of Department policies and procedures for, and oversight of, technology transfer-related disputes between contractors of the Department and the private sector; and

(2) report to the Congress on recommendations developed as a result of the studies.

**SEC. 21809. OUTREACH.**

The Secretary shall ensure that each program authorized by this title includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, institutions of higher education, facility planners and managers, State and local governments, and other entities.

**SEC. 21810. LIMITS ON USE OF FUNDS.**

(a) COMPETITIVE PROCEDURE REQUIREMENT.—None of the funds authorized to be appropriated to the Secretary by this title may be used to award a management and operating contract for a nonmilitary energy laboratory of the Department unless such contract is competitively awarded or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) CONGRESSIONAL NOTICE.—At least 2 months before a contract award for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Congress a report notifying the Congress of the waiver and setting forth the reasons for the waiver.

**SEC. 21811. REPROGRAMMING.**

(a) DISTRIBUTION REPORT.—Not later than 60 days after the date of the enactment of an Act appropriating amounts authorized under this title, the Secretary shall transmit to the appropriate authorizing committees of the Congress a report explaining how such amounts will be distributed among the authorizations contained in this title.

(b) PROHIBITION.—(1) No amount identified under subsection (a) shall be reprogrammed if such reprogramming would result in an obligation which changes an individual distribution required to be reported under subsection (a) by more than 5 percent unless the Secretary has transmitted to the appropriate authorizing committees of the Congress a report described in subsection (c) and a period of 30 days has elapsed after such committees receive the report.

(2) In the computation of the 30-day period described in paragraph (1), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) REPROGRAMMING REPORT.—A report referred to in subsection (b)(1) shall contain a full and complete statement of the action proposed to be taken and the facts and circumstances relied on in support of the proposed action.

**SEC. 21812. CONSTRUCTION WITH OTHER LAWS.**

Except as otherwise provided in this title, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this title in accordance with the applicable provisions of the Atomic Energy Act of 1954 (42 U.S.C. et seq.), the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.), the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act), and any other Act under which the Secretary is authorized to carry out such activities.

**SEC. 21813. UNIVERSITY COLLABORATION.**

Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Congress a report that examines the feasibility of promoting collaborations between large institutions of higher education and small institutions of higher education through grants, contracts, and cooperative agreements made by the Secretary for energy projects. The Secretary shall also consider providing incentives for the inclusion of small institutions of higher education, including minority-serving institutions, in energy research grants, contracts, and cooperative agreements.

**SEC. 21814. FEDERAL LABORATORY EDUCATIONAL PARTNERS.**

(a) DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.—Section 14(a)(1)(B)(v) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(B)(v)), is amended to read as follows:

''(v) for scientific research and development and for educational assistance and other purposes consistent with the missions and objectives of the Department of Energy and the laboratory.''.

(b) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—Section 12(b)(5)(C) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)(5)(C)) is amended to read as follows:

''(C) for scientific research and development and for educational assistance consistent with the missions and objectives of the Department of Energy and the laboratory.''.

**SEC. 21815. INTERAGENCY COOPERATION.**

The Secretary shall enter into discussions with the Administrator of the National Aeronautics and Space Administration with the goal of reaching an interagency working agreement between the 2 agencies that would make the National Aeronautics and Space Administration's expertise in energy, gained from its existing and planned programs, more readily available to the relevant research, development, demonstration, and commercial applications programs of the Department. Technologies to be discussed should include the National Aeronautics and Space Administration's modeling, research, development, testing, and evaluation of new energy technologies, including solar, wind, fuel cells, and hydrogen storage and distribution.

## TITLE II—DEPARTMENT OF ENERGY MANAGEMENT

**SEC. 22001. EXTERNAL REGULATION OF DEPARTMENT OF ENERGY.**

(a) DEPARTMENT OF ENERGY REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the assumption by the Nuclear Regulatory Commission of the Department's regulatory and enforcement responsibilities with respect to nuclear safety, and the assumption by the Occupational Safety and Health Administration of the Department's regulatory and enforcement responsibilities with respect to occupational safety and health, at any nonmilitary energy laboratory owned or operated by the Department. The report shall include—

(1) a detailed transition plan, drafted in coordination with the Nuclear Regulatory Commission and the Occupational Safety and Health Administration, for termination of self-regulation authority, including the activities to be coordinated with the Nuclear Regulatory Commission and the Occupational Safety and Health Administration;

(2) a description of any issues that would require resolution with the Nuclear Regulatory Commission, the Occupational Safety and Health Administration, or other external regulators; and

(3) an estimate of—

(A) the annual cost of administering and implementing external regulation of the nuclear safety and occupational safety and health responsibilities at nonmilitary energy laboratories owned or operated by the Department;

(B) the number of Federal and contractor employees required to administer and implement such external regulation; and

(C) the extent and schedule by which the Department and the staffs at its nonmilitary energy laboratories would be reduced, and the anticipated cost savings from that reduction.

(b) GENERAL ACCOUNTING OFFICE REPORTING REQUIREMENT.—The Comptroller General shall provide a report not later than 20 months after the date of enactment of this Act that compares the Department's transition plan with the Department's implementation of nuclear safety and occupational safety and health responsibilities under sections 234A and 234C of the Atomic Energy Act of 1954.

**SEC. 22002. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.**

(a) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—Section 209 of the Department of Energy Organization Act (42 U.S.C. 7139) is amended by—

(1) striking ''a Director'' and inserting ''an Assistant Secretary, in addition to those appointed under section 203(a),''; and

(2) striking ''Director'' and inserting ''Assistant Secretary''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 5315 of title 5, United States Code, is amended by—

(A) striking ''Director, Office of Science, Department of Energy.''; and

(B) striking ''Assistant Secretaries of Energy (6)'' and inserting ''Assistant Secretaries of Energy (7)''.

(2) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended—

(A) by striking ''Section 209'' and inserting ''Sec. 209'';

(B) by striking ''213.'' and inserting ''Sec. 213.'';

(C) by striking ''214.'' and inserting ''Sec. 214.'';

(D) by striking ''215.'' and inserting ''Sec. 215.''; and

(E) by striking ''216.'' and inserting ''Sec. 216.''.

## TITLE III—CLEAN SCHOOL BUSES

**SEC. 23001. ESTABLISHMENT OF PILOT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall establish a pilot program for awarding grants on a competitive basis to eligible entities for the demonstration and commercial application of alternative fuel school buses and ultra-low sulfur diesel school buses.

(b) REQUIREMENTS.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish and publish in the Federal register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including certification requirements to ensure compliance with this title.

(c) SOLICITATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals for grants under this section.

(d) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity responsible for providing school bus service to one or more public school systems or responsible for the purchase of school buses; or

(2) to a contracting entity that provides school bus service to one or more public school systems, if the grant application is submitted jointly with the school system or systems which the buses will serve.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—Grants under this section shall be for the demonstration and commercial application of technologies to facilitate the use of alternative fuel school buses and ultra-low sulfur diesel school buses in lieu of buses manufactured before model year 1977 and diesel-powered buses manufactured before model year 1991.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Secretary shall give priority to awarding grants to applicants who can demonstrate the use of alternative fuel buses and ultra-low sulfur diesel school buses in lieu of buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel school buses, including State taxes and contract fees; and

(B) to provide—

(i) up to 10 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 15 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) The grant recipient shall be required to provide at least the lesser of 15 percent of the total cost of each bus received or $15,000 per bus.

(4) In the case of a grant recipient receiving a grant to demonstrate ultra-low sulfur diesel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(g) BUSES.—Funding under a grant made under this section may be used to demonstrate the use only of new alternative fuel school buses or ultra-low sulfur diesel school buses—

(1) with a gross vehicle weight of greater than 14,000 pounds;

(2) that are powered by a heavy duty engine;

(3) that, in the case of alternative fuel school buses manufactured in model years 2003 through 2006, emit not more than 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(4) that, in the case of ultra-low sulfur diesel school buses, emit not more than—

(A) for buses manufactured in model year 2003, 3.0 grams per brake horsepower-hour of oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter,

except that under no circumstances shall buses be acquired under this section that emit nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of the same class of ultra-low sulfur diesel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel school buses and ultra-low sulfur diesel school buses through the program under this section, and shall ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for any fiscal year for the acquisition of ultra-low sulfur diesel school buses.

(j) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy, consistent with the health, safety, and welfare of students and the proper operation and maintenance of school buses, to reduce the incidence of unnecessary school bus idling at schools when picking up and unloading students.

(k) ANNUAL REPORT.—Not later than January 31 of each year, the Secretary of Energy shall provide a report evaluating implementation of the program under this title to the Congress. Such report shall include the total number of grant applications received, the number and types of alternative fuel buses and ultra-low sulfur diesel school buses requested in grant applications, a list of grants awarded and the criteria used to select the grant recipients, certified engine emission levels of all buses purchased under the program, and any other information the Secretary considers appropriate.

(l) DEFINITIONS.—For purposes of this section—

(1) the term ''alternative fuel school bus'' means a bus powered substantially by electricity (including electricity supplied by a fuel cell), or by liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume;

(2) the term ''idling'' means operating an engine while remaining stationary for more than approximately 15 minutes, except that such term does not apply to routine stoppages associated with traffic movement or congestion; and

(3) the term ''ultra-low sulfur diesel school bus'' means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

**SEC. 23002. FUEL CELL BUS DEVELOPMENT AND DEMONSTRATION PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program for entering into cooperative agreements with private sector fuel cell bus developers for the development of fuel cell-powered school buses, and subsequently with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) COST SHARING.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) FUNDING.—No more than $25,000,000 of the amounts authorized under section 23004(a) may be used for carrying out this section for the period encompassing fiscal years 2004 through 2006.

(d) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, and not later than October 1, 2006, the Secretary shall transmit to the Congress a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

**SEC. 23003. DIESEL RETROFIT PROGRAM.**

(a) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency and the Secretary shall establish a pilot program for awarding grants on a competitive basis to eligible recipients for the demonstration and commercial application of retrofit technologies for diesel school buses.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity responsible for providing school bus service to one or more public school systems; or

(2) to a contracting entity that provides school bus service to one or more public school systems, if the grant application is submitted jointly with the school system or systems which the buses will serve.

(c) CONDITIONS OF GRANT.—A grant provided under this section may be used only to demonstrate the use of retrofit emissions-control technology on diesel buses that—

(1) operate on ultra-low sulfur diesel fuel; and

(2) were manufactured in model year 1991 or later.

(d) VERIFICATION.—Not later than 3 months after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify—

(1) the retrofit emissions-control technology to be demonstrated; and

(2) that buses on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur.

**SEC. 23004. AUTHORIZATION OF APPROPRIATIONS.**

(a) SCHOOL BUS GRANTS.—There are authorized to be appropriated to the Secretary for carrying out this title, to remain available until expended—

(1) $90,000,000 for fiscal year 2004;

(2) $100,000,000 for fiscal year 2005; and

(3) $110,000,000 for fiscal year 2006.

(b) RETROFIT GRANTS.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency and the Secretary such sums as may be necessary for carrying out section 23003.

## DIVISION C—RESOURCES

## TITLE I—INDIAN ENERGY

**SEC. 30101. INDIAN ENERGY.**

Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

**''TITLE XXVI—INDIAN ENERGY**

**''SEC. 2601. DEFINITIONS.**

''In this title:

''(1) INDIAN.—The term 'Indian' means an individual member of an Indian tribe who owns land or an interest in land, the title to which land—

''(A) is held in trust by the United States; or

''(B) is subject to a restriction against alienation imposed by the United States.

''(2) INDIAN LAND.—The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria; or

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe;

''(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

''(iii) by a dependent Indian community.

''(3) INDIAN RESERVATION.—The term 'Indian reservation' includes—

''(A) an Indian reservation in existence as of the date of the enactment of this paragraph;

''(B) a public domain Indian allotment;

''(C) a former reservation in the State of Oklahoma; and

''(D) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

''(4) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), except the term, for the purposes of this title, shall not include any Native Corporation.

''(5) NATIVE CORPORATION.—The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(6) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(7) TRIBAL CONSORTIUM.—The term 'tribal consortium' means an organization that consists of at least 3 entities, at least 1 of which is an Indian tribe.

**''SEC. 2602. INDIAN TRIBAL RESOURCE REGULATION.**

''To the maximum extent practicable, the Secretary and the Secretary of Energy shall make available to Indian tribes, tribal consortia, and Native Corporations scientific and technical data for use in the development and management of energy resources on Indian land and on land conveyed to a Native Corporation.

**''SEC. 2603. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.**

''(a) IN GENERAL.—Notwithstanding any other provision of law—

''(1) an Indian or Indian tribe may enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

''(A) exploration for, extraction of, processing of, or other development of energy resources; and

''(B) construction or operation of—

''(i) an electric generation, transmission, or distribution facility located on Indian land; or

''(ii) a facility to process or refine energy resources developed on Indian land; and

''(2) a lease or business agreement described in paragraph (1) shall not require the approval of the Secretary if—

''(A) the lease or business agreement is executed under tribal regulations approved by the Secretary under subsection (e); and

''(B) the term of the lease or business agreement does not exceed 30 years.

''(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over the Indian land of the Indian tribe for a pipeline or an electric transmission or distribution line without specific approval by the Secretary if—

''(1) the right-of-way is executed under and complies with tribal regulations approved by the Secretary under subsection (e);

''(2) the term of the right-of-way does not exceed 30 years; and

''(3) the pipeline or electric transmission or distribution line serves—

''(A) an electric generation, transmission, or distribution facility located on Indian land; or

''(B) a facility located on Indian land that processes or refines renewable or nonrenewable energy resources developed on Indian land.

''(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe, in accordance with this section.

''(d) VALIDITY.—No lease, business agreement, or right-of-way under this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with tribal regulations approved by the Secretary under subsection (e).

''(e) TRIBAL REGULATORY REQUIREMENTS.—

''(1) IN GENERAL.—An Indian tribe may submit to the Secretary for approval tribal regulations governing leases, business agreements, and rights-of-way under this section.

''(2) APPROVAL OR DISAPPROVAL.—

''(A) IN GENERAL.—Not later than 120 days after the date on which the Secretary receives tribal regulations submitted by an Indian tribe under paragraph (1) (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the regulations.

''(B) CONDITIONS FOR APPROVAL.—The Secretary shall approve tribal regulations submitted under paragraph (1) only if the regulations include provisions that, with respect to a lease, business agreement, or right-of-way under this section—

''(i) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

''(ii) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

''(iii) address amendments and renewals;

''(iv) address consideration for the lease, business agreement, or right-of-way;

''(v) address technical or other relevant requirements;

''(vi) establish requirements for environmental review in accordance with subparagraph (C);

''(vii) ensure compliance with all applicable environmental laws;

''(viii) identify final approval authority;

''(ix) provide for public notification of final approvals; and

''(x) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way.

''(C) ENVIRONMENTAL REVIEW PROCESS.—Tribal regulations submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

''(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative);

''(ii) the identification of proposed mitigation;

''(iii) a process for ensuring that the public is informed of and has an opportunity to comment on any proposed lease, business agreement, or right-of-way before tribal approval of the lease, business agreement, or right-of-way (or any amendment to or renewal of a lease, business agreement, or right-of-way); and

''(iv) sufficient administrative support and technical capability to carry out the environmental review process.

''(3) PUBLIC PARTICIPATION.—The Secretary may provide notice and opportunity for public comment on tribal regulations submitted under paragraph (1).

''(4) DISAPPROVAL.—If the Secretary disapproves tribal regulations submitted by an Indian tribe under paragraph (1), the Secretary shall—

''(A) notify the Indian tribe in writing of the basis for the disapproval;

''(B) identify what changes or other actions are required to address the concerns of the Secretary; and

''(C) provide the Indian tribe with an opportunity to revise and resubmit the regulations.

''(5) EXECUTION OF LEASE OR BUSINESS AGREEMENT OR GRANTING OF RIGHT-OF-WAY.—If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with tribal regulations approved under this subsection, the Indian tribe shall provide to the Secretary—

''(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

''(B) in the case of tribal regulations or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

''(6) LIABILITY.—The United States shall not be liable for any loss or injury sustained by any party (including an Indian tribe or any member of an Indian tribe) to a lease, business agreement, or right-of-way executed in accordance with tribal regulations approved under this subsection.

''(7) COMPLIANCE REVIEW.—

''(A) IN GENERAL.—After exhaustion of tribal remedies, any person may submit to the Secretary, in a timely manner, a petition to review compliance of an Indian tribe with tribal regulations of the Indian tribe approved under this subsection.

''(B) ACTION BY SECRETARY.—The Secretary shall—

''(i) not later than 60 days after the date on which the Secretary receives a petition under subparagraph (A), review compliance of an Indian tribe described in subparagraph (A); and

''(ii) on completion of the review, if the Secretary determines that an Indian tribe is not in compliance with tribal regulations approved under this subsection, take such action as is necessary to compel compliance, including—

''(I)(aa) rescinding a lease, business agreement, or right-of-way under this section; or

''(bb) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with tribal regulations; and

''(II) rescinding approval of the tribal regulations and reassuming the responsibility for approval of leases, business agreements, or rights-of-way associated with an energy pipeline or distribution line described in subsection (b).

''(C) COMPLIANCE.—If the Secretary seeks to compel compliance of an Indian tribe with tribal regulations under subparagraph (B)(ii), the Secretary shall—

''(i) make a written determination that describes the manner in which the tribal regulations have been violated;

''(ii) provide the Indian tribe with a written notice of the violation together with the written determination; and

''(iii) before taking any action described in subparagraph (B)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal regulations.

''(D) APPEAL.—An Indian tribe described in subparagraph (C) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

''(f) AGREEMENTS.—

''(1) IN GENERAL.—Any agreement by an Indian tribe that relates to the development of an electric generation, transmission, or distribution facility, or a facility to process or refine renewable or nonrenewable energy resources developed on Indian land, shall not require the specific approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) if the activity that is the subject of the agreement is carried out in accordance with this section.

''(2) LIABILITY.—The United States shall not be liable for any loss or injury sustained by any person (including an Indian tribe or any member of an Indian tribe) resulting from an action taken in performance of an agreement entered into under this subsection.

''(g) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of any provision of—

''(1) the Act of May 11, 1938 (commonly known as the Indian Mineral Leasing Act of 1938; 25 U.S.C. 396a et seq.);

''(2) the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.);

''(3) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

''(4) any Federal environmental law.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.''.

## TITLE II—OIL AND GAS

### SEC. 30201. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all royalty in-kind accepted by the Secretary of the Interior on or after the date of the enactment of this Act under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other Federal law governing leasing of Federal lands for oil and gas development.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States shall, on the demand of the Secretary of the Interior, be paid in oil or gas. If the Secretary of the Interior makes such a demand, the following provisions apply to such payment:

(1) Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee's royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2)(A) Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(B) In this paragraph, the term ''in marketable condition'' means sufficiently free from impurities and otherwise in a condition that it will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

(3) The Secretary of the Interior may—

(A) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

(4) The Secretary of the Interior may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas royalties taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use royalty production, to pay the cost of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) The Secretary of the Interior may use a portion of the revenues from the sale of oil royalties taken in-kind, without fiscal year limitation, to pay transportation costs, salaries, and other administrative costs directly related to filling the Strategic Petroleum Reserve.

(c) REIMBURSEMENT OF COST.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary of the Interior shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) at the discretion of the Secretary of the Interior, allow the lessee to deduct such transportation or processing costs in reporting and paying royalties in value for other Federal oil and gas leases.

(d) BENEFIT TO THE UNITED STATES REQUIRED.—The Secretary of the Interior may receive oil or gas royalties in-kind only if the Secretary determines that receiving such royalties provides benefits to the United States greater than or equal to those likely to have been received had royalties been taken in value.

(e) REPORT TO CONGRESS.—By June 30, 2004, the Secretary of the Interior shall provide a report to the Congress that describes actions taken to develop an organization, business processes, and automated systems to support a full royalty in-kind capability to be used in tandem with the royalty in value approach to managing Federal oil and gas revenues.

(f) DEDUCTION OF EXPENSES.—

(1) IN GENERAL.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary of the Interior shall deduct amounts paid or deducted under subsections (b)(4) and (c), and shall deposit such amounts to miscellaneous receipts.

(2) ACCOUNTING FOR DEDUCTIONS.—If the Secretary of the Interior allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary of the Interior—

(1) shall consult with a State before conducting a royalty in-kind program under this title within the State, and may delegate management of any portion of the Federal royalty in-kind program to such State except as otherwise prohibited by Federal law; and

(2) shall consult annually with any State from which Federal oil or gas royalty is being taken in-kind to ensure to the maximum extent practicable that the royalty in-kind program provides revenues to the State greater than or equal to those likely to have been received had royalties been taken in-value.

(h) PROVISIONS FOR SMALL REFINERIES.—

(1) PREFERENCE.—If the Secretary of the Interior determines that sufficient supplies of crude oil are not available in the open market to refineries not having their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in such refineries at private sale at not less than the market price.

(2) PRORATION AMONG REFINERIES IN PRODUCTION AREA.—In disposing of oil under this subsection, the Secretary of the Interior may, at the discretion of the Secretary, prorate such oil among such refineries in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) ONSHORE ROYALTY.—Any royalty oil or gas taken by the Secretary of the Interior in-kind from onshore oil and gas leases may be sold at not less than the market price to any department or agency of the United States.

(2) OFFSHORE ROYALTY.—Any royalty oil or gas taken in-kind from Federal oil and gas leases on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) PREFERENCE FOR FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—In disposing of royalty oil or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any State or Federal agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

### SEC. 30202. CLARIFICATION OF FAIR MARKET RENTAL VALUE DETERMINATIONS FOR PUBLIC LANDS AND FOREST SERVICE RIGHTS-OF-WAY.

(a) LINEAR RIGHTS-OF-WAY UNDER FEDERAL LAND POLICY AND MANAGEMENT ACT.—Section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) is amended by adding at the end the following:

''(k) DETERMINATION OF FAIR MARKET VALUE OF LINEAR RIGHTS-OF-WAY.—(1) Effective upon the issuance of the rules required by paragraph (2), for purposes of subsection (g), the Secretary concerned shall determine the fair market rental for the use of land encumbered by a linear right-of-way granted, issued, or renewed under this title using the valuation method described in paragraphs (2), (3), and (4).

''(2) Not later than 1 year after the date of enactment of this subsection, and in accordance with subsection (k), the Secretary of the Interior shall amend section 2803.1–2 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this subsection, to revise the per acre rental fee zone value schedule by State, county, and type of linear right-of-way use to reflect current values of land in each zone. The Secretary of Agriculture shall make the same revisions for linear rights-of-way granted, issued, or renewed under this title on National Forest System lands.

''(3) The Secretary concerned shall update annually the schedule revised under paragraph (2) by multiplying the current year's rental per acre by the annual change, second quarter to the second quarter (June 30 to June 30) in the Gross National Product Implicit Price Deflator Index published in the Survey of Current Business of the Department of Commerce, Bureau of Economic Analysis.

''(4) Whenever the cumulative change in the index referred to in paragraph (3) exceeds 30 percent, or the change in the 3-year average of the 1-year Treasury interest rate used to determine per acre rental fee zone values exceeds plus or minus 50 percent, the Secretary concerned shall conduct a review of the zones and rental per acre figures to determine whether the value of Federal land has differed sufficiently from the index referred to in paragraph (3) to warrant a revision in the base zones and rental per acre figures. If, as a result of the review, the Secretary concerned determines that such a revision is warranted, the Secretary concerned shall revise the base zones and rental per acre figures accordingly.''.

(b) RIGHTS-OF-WAY UNDER MINERAL LEASING ACT.—Section 28(l) of the Mineral Leasing Act (30 U.S.C. 185(l)) is amended by inserting before the period at the end the following: ''using the valuation method described in section 2803.1–2 of title 43, Code of Federal Regulations, as revised pursuant to section 504(k) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(k))''.

**SEC. 30203. USGS ESTIMATES OF OIL AND GAS RESOURCES UNDERLYING ONSHORE FEDERAL LANDS.**

Section 604(a) of the Energy Act of 2000 (42 U.S.C. 6217) is amended—

(1) in subsection (a)(1)—

(A) by striking ''reserve''; and

(B) by striking ''and'' after the semicolon;

(2) by striking subsection (a)(2) and inserting the following:

''(2) the extent and nature of any restrictions or impediments to the development of such resources, including—

''(A) impediments to the timely granting of leases; and

''(B) post-lease restrictions, impediments, or delays on development, involving conditions of approval, applications for permits to drill, or processing of environmental permits; and

''(C) permits or restrictions associated with transporting the resources for entry into commerce; and

''(3) the amount of resources not produced or introduced into commerce because of those restrictions.''; and

(3) in subsection (b)—

(A) by striking ''reserve'' and inserting ''resource''; and

(B) by striking ''publically'' and inserting ''publicly''.

**SEC. 30204. ROYALTY INCENTIVES FOR CERTAIN OFFSHORE AREAS.**

(a) OUTER CONTINENTAL SHELF SHALLOW WATER DEEP GAS ROYALTY RELIEF.—

(1) SHORT TITLE.—This subsection may be cited as the ''Outer Continental Shelf Shallow Water Deep Gas Royalty Relief Act''.

(2) PURPOSES.—The purposes of this subsection are the following:

(A) To accelerate natural gas exploration, development, and production from wells drilled to deep depths on existing shallow water lease tracts on the Outer Continental Shelf.

(B) To provide royalty incentives for the production of natural gas from such tracts.

(C) To provide royalty incentives for development of new technologies and the exploration and development of the new frontier of deep drilling on the Outer Continental Shelf.

(3) ROYALTY INCENTIVES UNDER EXISTING LEASES FOR PRODUCTION OF DEEP GAS IN SHALLOW WATER IN THE GULF OF MEXICO.—

(A) SUSPENSION OF ROYALTIES.—

(i) IN GENERAL.—The Secretary of the Interior shall grant royalty relief for natural gas produced under leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) prior to January 1, 2001, from deep wells on oil and gas lease tracts in shallow waters of the Gulf of Mexico located wholly west of 87 degrees, 30 minutes west longitude.

(ii) AMOUNT OF RELIEF.—The Secretary shall grant royalty relief to eligible leases in the following amounts:

(I) A suspension volume of at least 15 billion cubic feet of natural gas produced from a successful deep well with a total vertical depth of 15,000 feet to 17,999 feet.

(II) A suspension volume of at least 25 billion cubic feet of natural gas produced from a successful deep well with a total vertical depth of 18,000 feet to 19,999 feet.

(III) A suspension volume of at least 35 billion cubic feet of natural gas produced from any ultra deep well.

(IV) A suspension volume of at least 5 billion cubic feet of natural gas per well for up to 2 unsuccessful wells drilled to a depth of at least 18,000 feet on a lease tract that subsequently produces natural gas from a successful deep well.

(iii) LIMITATION.—The Secretary shall not grant the royalty incentives outlined in this subparagraph if the average annual NYMEX natural gas price exceeds for one full calendar year the threshold price of $5 per million Btu, adjusted from the year 2000 for inflation.

(B) DEFINITIONS.—For purposes of this paragraph:

(i) The term ''deep well'' means a well drilled with a perforated interval, the top of which is at least 15,000 feet true vertical depth below the datum at mean sea level.

(ii) The term ''eligible lease'' means a lease that—

(I) was issued in a lease sale held before January 1, 2001;

(II) is for a tract located in the Gulf of Mexico entirely in water depths less than 200 meters on a block wholly west of 87 degrees, 30 minutes west longitude; and

(III) is for a tract that has not produced gas or oil from a well that commenced drilling before March 26, 2003, with a completion 15,000 feet true vertical depth below the datum at mean sea level or deeper.

(iii) The term ''shallow water'' means water less than 200 meters deep.

(iv) The term ''ultra deep well'' means a well drilled with a perforated interval, the top of which is at least 20,000 feet true vertical depth below the datum at mean sea level.

(4) SUNSET.—This subsection shall have no force or effect after the end of the 5-year period beginning on the date of the enactment of this Act.

(b) DEEP WATER AREAS.—Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by adding at the end the following:

''(9)(A) For all tracts located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, and for all tracts in a frontier area offshore Alaska, any oil or gas lease sale under this Act occurring after the date of the enactment of this paragraph and before July 1, 2007, shall use the bidding system authorized in paragraph (1)(H), except that the suspension of royalties shall be set at a volume of not less than the following:

''(i) 5 million barrels of oil equivalent for each lease in water depths of 400 to 800 meters.

''(ii) 9 million barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters.

''(iii) 12 million barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

''(B) For purposes of this paragraph, the term 'frontier area offshore Alaska' includes, at a minimum, those areas offshore Alaska with seasonal ice, long distances to existing pipelines and ports, or a lack of production infrastructure.''.

(c) APPLICATION OF OTHER EXISTING AUTHORITY TO OFFSHORE ALASKA.—Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended—

(1) by striking ''and the portion'' and inserting '', the portion''; and

(2) by inserting after ''longitude,'' the following: ''and in the planning areas offshore Alaska,''.

(d) RELATIONSHIP TO EXISTING AUTHORITY.—Except as expressly provided in this section, nothing in this section is intended to limit the authority of the Secretary of the Interior under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to provide royalty suspension.

(e) SAVINGS CLAUSE.—Nothing in this section shall be construed to affect any offshore preleasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

**SEC. 30205. MARGINAL PROPERTY PRODUCTION INCENTIVES.**

(a) PURPOSE.—The purpose of this section is to provide to independent producers incentives for extended production from Federal oil and gas leases that are still producible but approaching abandonment due to economic factors.

(b) MARGINAL PROPERTY DEFINED.—

(1) IN GENERAL.—Until such time as the Secretary of the Interior promulgates rules under subsection (f) that prescribe a different definition, for purposes of the royalty relief granted under this section the term ''marginal property'' means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement, that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 million British thermal units of gas per well per day.

(2) CALCULATION OF AVERAGE PER WELL PRODUCTION.—In calculating the average per well production under paragraph (1), the lessee and the Secretary shall—

(A) include those wells that produce more than half the days in the three most recent production months; and

(B) calculate the average over the three most recent production months.

(c) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the Secretary of the Interior promulgates rules under subsection (f) that prescribe different thresholds or standards—

(1) the Secretary shall, upon request by the operator of a marginal property who is an independent producer, reduce the royalty rate on oil production from the marginal property as prescribed in subsection (d) when the spot price of West Texas Intermediate

crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel for 90 consecutive trading days; and

(2) the Secretary shall, upon request by the operator of a marginal property who is an independent producer, reduce the royalty rate on gas production from the marginal property to the rate prescribed in subsection (d) when the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2 per million British thermal units for 90 consecutive trading days.

(d) REDUCED ROYALTY RATE.—

(1) IN GENERAL.—The reduced royalty rate under this subsection shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) EFFECTIVE DATE.—The reduced royalty rate under this subsection shall be effective on the first day of the production month following the date on which the applicable price standard prescribed in subsection (c) is met.

(e) TERMINATION OF REDUCED ROYALTY RATE.—A royalty rate prescribed in subsection (d)(1) shall terminate—

(1) for oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel for 90 consecutive trading days, or

(B) the property no longer qualifies as a marginal property under subsection (b); and

(2) for gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $2 per million British thermal units for 90 consecutive trading days, or

(B) the property no longer qualifies as a marginal property under subsection (b).

(f) RULES PRESCRIBING DIFFERENT RELIEF.—

(1) IN GENERAL.—The Secretary of the Interior, after consultation with the Secretary of Energy, may by rule prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (b) through (d).

(2) MARGINAL PROPERTIES.—The Secretary of the Interior, after consultation with the Secretary of Energy, and within 1 year after the date of enactment of this Act, shall—

(A) by rule prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for oil and gas leases on the outer Continental Shelf; and

(B) by rule define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

(3) CONSIDERATIONS.—In promulgating rules under this subsection, the Secretary of the Interior may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and their effects on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters.

(g) SAVINGS PROVISION.—Nothing in this section shall prevent a lessee from receiving royalty relief or a royalty reduction pursuant to any other law or regulation that provides more relief than the amounts provided by this section.

(h) INDEPENDENT PRODUCER DEFINED.—In this section the term ''independent producer'' means a person who is not an integrated oil company, as that term is defined in section 219(b)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 291(b)(4)).

**SEC. 30206. FEDERAL ONSHORE OIL AND GAS LEASING AND PERMITTING PRACTICES.**

(a) REVIEW OF ONSHORE OIL AND GAS LEASING PRACTICES.—The Secretary of the Interior, in cooperation with the Secretary of Agriculture with respect to National Forest System lands under the jurisdiction of the Department of Agriculture, shall perform an internal review of Federal onshore oil and gas leasing and permitting practices. The review shall include the following:

(1) The process by which Federal land managers accept or reject an offer to lease, including the timeframes in which such offers are acted upon, and any recommendations for improving and expediting the process.

(2) The process for considering applications for permits to drill, including the timeframes in which such applications are considered, and any recommendations for improving and expediting the process.

(3) The process for considering surface use plans of operation, including the timeframes in which such plans are considered, and any recommendations for improving and expediting the process.

(4) The process for administrative appeal of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease, including the timeframes in which such appeals are heard and decided, and any recommendations for improving and expediting the process.

(5) The process by which Federal land managers identify stipulations to address site-specific concerns and conditions, including those relating to the environment and resource use conflicts, whether stipulations are effective in addressing resource values, and any recommendations for expediting and improving the identification and effectiveness of stipulations.

(6) The process by which the Federal land management agencies coordinate planning and analysis with planning of Federal, State, and local agencies having jurisdiction over adjacent areas and other land uses, and any recommendations for improving and expediting the process.

(7) The documentation provided to lease applicants and lessees with respect to determinations to reject lease applications or to require modification of proposed surface use plans of operation and recommendations regarding improvement of such documentation to more clearly set forth the basis for the decision.

(b) REPORT.—The Secretaries shall report to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 1 year after the date of the enactment of this Act, summarizing the findings of their respective reviews undertaken pursuant to this section and the actions they have taken or plan to take to improve the Federal onshore oil and gas leasing program.

**SEC. 30207. MANAGEMENT OF FEDERAL OIL AND GAS LEASING PROGRAMS.**

(a) TIMELY ACTION ON LEASES AND PERMITS.—To ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing, the Secretary of the Interior shall—

(1) ensure expeditious compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(2) improve consultation and coordination with the States and the public; and

(3) improve the collection, storage, and retrieval of information related to such leasing activities.

(b) BEST MANAGEMENT PRACTICES.—

(1) IN GENERAL.—Within 18 months after the date of enactment of this Act, the Secretary of the Interior shall develop and implement best management practices to improve the administration of the onshore oil and gas leasing program pursuant to the Mineral Leasing Act (30 U.S.C. 181, et seq.) and ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing.

(2) CONSIDERATION AND CONSULTATION.—In developing such best management practices the Secretary shall consider the recommendations resulting from the review under section 30206.

(3) REGULATIONS.—Within 180 days after the development of best management practices under paragraph (1), the Secretary shall publish for public comment proposed regulations that set forth specific timeframes for processing leases and applications in accordance with those practices, including deadlines for—

(A) approving or disapproving—

(i) resource management plans and related documents;

(ii) lease applications;

(iii) applications for permits to drill; and

(iv) surface use plans; and

(B) related administrative appeals.

**SEC. 30208. CONSULTATION REGARDING OIL AND GAS LEASING ON PUBLIC LANDS.**

(a) IN GENERAL.—Not later than six months after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into, and submit to the Congress, a memorandum of understanding in accordance with this section regarding oil and gas leasing on public lands within the jurisdiction of the Secretary of the Interior and National Forest System lands within the jurisdiction of the Secretary of Agriculture.

(b) CONTENTS.—The memorandum of understanding shall include provisions that—

(1) establish an administrative procedure for timely processing of oil and gas lease applications, including lines of authority, steps in application processing, and timeframes for application processing;

(2) establish an administrative procedure for timely processing of surface use plans of operation and applications for permits to drill, including lines of authority and steps for processing such plans and applications within 30 days after receipt by the Secretary concerned;

(3) provide for coordination of planning relating to oil and gas development;

(4) provide for coordination of environmental compliance efforts to avoid duplication of effort;

(5) provide for coordination of use of lease stipulations to achieve consistency;

(6) ensure that lease stipulations are only as restrictive as is necessary to protect the resource for which the stipulations are applied; and

(7) establish reasonable timeframes to process applications for permits to drill.

(c) DATA RETRIEVAL SYSTEM.—

(1) IN GENERAL.—The Secretary of the Interior and the Secretary of Agriculture shall establish a joint data retrieval system that is capable of tracking applications and formal requests made pursuant to procedures of the Federal onshore oil and gas leasing program and providing information as to the status of such applications and requests within the Department of the Interior and the Department of Agriculture.

(2) AVAILABILITY OF DATA.—Data in the joint data retrieval system shall be made available to the public, consistent with applicable laws and regulations regarding confidentiality and proprietary data.

(3) RESOURCE MAPPING.—The Secretary of the Interior and the Secretary of Agriculture shall establish a joint GIS mapping system for use in tracking surface resource values to

aid in resource management and processing of surface use plans of operation and applications for permits to drill.

**SEC. 30209. OIL AND GAS LEASE ACREAGE LIMITATIONS.**

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after ''acreage held in special tar sand areas'' the following: ''as well as acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement, or for which royalty, including compensatory royalty or royalty in kind, was paid in the preceding calendar year,''.

**SEC. 30210. FEDERAL REIMBURSEMENT FOR ORPHAN WELL RECLAMATION.**

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' means a person who owns a lease, working interest, or operating rights in an oil and gas lease on lands owned by the United States.

(2) ORPHAN WELL.—The term ''orphan well'' means any oil or gas well—

(A) that is located on lands owned by the United States;

(B) that requires plugging and abandonment under the regulations of the Department of the Interior; and

(C) for which the Secretary is unable to find any person who is legally responsible and has the financial resources to reclaim the well.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior or the Secretary's designee.

(b) REIMBURSEMENT FOR RECLAIMING WELLS ON LANDS SUBJECT TO NEW LEASES.—If the Secretary issues a new oil and gas lease on federally owned lands on which 1 or more orphaned wells are located, the Secretary—

(1) may require, as a condition of the lease, that the lessee reclaim pursuant to the Secretary's standards all orphaned wells on the land leased; and

(2) shall provide to the lessee a credit against royalties due under the lease for 100 percent of the reasonable actual costs of reclaiming the orphaned well pursuant to such requirement.

(c) ROYALTY CREDITS FOR RECLAIMING ORPHAN WELLS ON OTHER LANDS.—The Secretary—

(1) may authorize any lessee under an oil and gas lease on federally owned lands to reclaim pursuant to the Secretary's standards—

(A) an orphan well on unleased federally owned lands or unleased lands on the outer Continental Shelf; or

(B) an orphan well located on an existing lease on federally owned lands or the outer Continental Shelf for the reclamation of which the lessee is not legally responsible; and

(2) shall provide to the lessee a credit against royalties under the lessee's lease of 115 percent of the reasonable actual costs of reclaiming the orphan well.

(d) REPORTING AND APPLICATION OF ROYALTY CREDITS.—

(1) IN GENERAL.—Any credit against royalties required to be provided to a lessee under this section may be reported against royalties on production from any oil and gas lease on federally owned lands, or on the outer Continental Shelf, administered by the Secretary, that are owed by—

(A) a lessee;

(B) any wholly owned affiliate or wholly commonly owned affiliate of a lessee; or

(C) any wholly owned affiliate or wholly commonly owned affiliate of the person conducting the reclamation work on an orphan well.

(2) REPORTING BY DESIGNEES.—Credits against royalties required to be provided to a lessee under this section may be reported by a designee (as defined in section 3 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1982 (30 U.S.C. 1702)), when the designee reports and pays royalty on behalf of the lessee.

(e) IMPLEMENTING REGULATIONS.—The Secretary may promulgate such regulations as may be necessary and appropriate to implement this section.

(f) PROTECTION AGAINST LIABILITY.—No person who reclaims an orphan well under this section shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out a reclamation plan approved by the Secretary under this section. This section shall not preclude liability for costs or damages as a result of a gross negligence or intentional misconduct by the person carrying out an approved reclamation plan. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

**SEC. 30211. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.**

(a) SHORT TITLE.—This section may be cited as the ''National Geological and Geophysical Data Preservation Program Act of 2003''.

(b) PROGRAM.—The Secretary of the Interior shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) to provide a national catalog of such archival material; and

(3) to provide technical and financial assistance related to the archival material.

(c) PLAN.—Within 1 year after the date of the enactment of this Act, the Secretary shall develop and submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a plan for the implementation of the Program.

(d) DATA ARCHIVE SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system, which shall provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless it is the agency that acts as the geological survey in the State.

(4) DATA FROM FEDERAL LANDS.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal lands—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data was collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(e) NATIONAL CATALOG.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this section, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) data and samples available in the data archive system established under subsection (d);

(B) the repository for particular material in such system; and

(C) the means of accessing the material.

(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the World Wide Web, consistent with all applicable requirements related to confidentiality and proprietary data.

(f) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31b et seq.), the Advisory Committee shall perform the following duties:

(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities in subsection (g)(1).

(B) Review and critique the draft implementation plan prepared by the Secretary pursuant to subsection (c).

(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

(g) FINANCIAL ASSISTANCE.—

(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2), for providing facilities to archive energy material.

(2) STUDIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be no more than 50 percent of the total cost of that activity.

(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

(1) a description of the status of the Program;

(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

(i) DEFINITIONS.—As used in this section:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior acting through the Director of the United States Geological Survey.

(3) PROGRAM.—The term ''Program'' means the National Energy Data Preservation Program carried out under this section.

(4) SURVEY.—The term ''Survey'' means the United States Geological Survey.

(j) MAINTENANCE OF STATE EFFORT.—It is the intent of the Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $30,000,000 for each of fiscal years 2004 through 2008 for carrying out this section.

**SEC. 30212. COMPLIANCE WITH EXECUTIVE ORDER 13211; ACTIONS CONCERNING REGULATIONS THAT SIGNIFICANTLY AFFECT ENERGY SUPPLY, DISTRIBUTION, OR USE.**

(a) REQUIREMENT.—The Secretary of the Interior shall—

(1) require that before any person takes any action that could have a significant adverse effect on the supply of domestic energy resources from Federal public lands, the person shall comply with Executive Order 13211; and

(2) within 180 days after the date of the enactment of this Act, publish guidance for purposes of this section describing what constitutes a significant adverse effect on the supply of domestic energy resources under Executive Order 13211.

(b) MOU.—The Secretary of the Interior and the Secretary of Agriculture shall include in the memorandum of understanding under section 30208 provisions regarding implementation of subsection (a)(1) of this section.

**SEC. 30213. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.**

(a) IN GENERAL.—The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after section 37 the following:

''REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

''SEC. 38. (a) IN GENERAL.—The Secretary of the Interior may, through royalty credits, reimburse a person who is a lessee, operator, operating rights owner, or applicant for any lease under this Act for reasonable amounts paid by the person for preparation by the Secretary (or a contractor or other person selected by the Secretary) of any project-level analysis, documentation, or related study required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

''(b) CONDITIONS.—The Secretary may provide reimbursement under subsection (b) only if—

''(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

''(2) the person paid the costs voluntarily; and

''(3) the person maintains records of its costs in accordance with regulations prescribed by the Secretary.''.

(b) APPLICATION.—The amendment made by this section shall apply with respect to any lease entered into before, on, or after the date of the enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary of the Interior shall issue regulations implementing the amendment made by this section by not later than 90 days after the date of the enactment of this Act.

**SEC. 30214. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.**

(a) PURPOSES.—The purposes of this section are as follows:

(1) To protect the economic and land use interests of the Federal Government in the management of the Outer Continental Shelf for energy-related and certain other purposes.

(2) To provide an administrative framework for the oversight and management of energy-related activities on the Outer Continental Shelf, consistent with other applicable laws.

(3) To expedite projects to increase the production, transmission, or conservation of energy on the Outer Continental Shelf.

(4) To provide for interagency coordination in the siting and permitting of energy-related activities on the Outer Continental Shelf.

(5) To ensure that energy-related activities on the Outer Continental Shelf are conducted in a manner that provides for safety, protection of the environment, prevention of waste, conservation of natural resources, protection of correlative rights, and protection of national security interests.

(6) To authorize alternate uses of existing structures and facilities previously permitted under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 note).

(7) To ensure that the Federal Government receives a fair return for any easement or right-of-way granted under section 8(p) of the Outer Continental Shelf Lands Act.

(b) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following new subsection:

''(p) EASEMENTS OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

''(1) The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant an easement or right-of-way on the Outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), or the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law when such activities—

''(A) support exploration, development, production, transportation, or storage of oil, natural gas, or other minerals;

''(B) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

''(C) use facilities currently or previously used for activities authorized under this Act.

''(2)(A) The Secretary shall establish reasonable forms of annual or one-time payments for any easement or right-of-way granted under this subsection. Such payments shall not be assessed on the basis of throughput or production. The Secretary may establish fees, rentals, bonus, or other payments by rule or by agreement with the party to whom the easement or right-of-way is granted.

''(B) Before exercising the authority granted under this subsection, the Secretary shall consult with the Secretary of Defense and other appropriate agencies concerning issues related to national security and navigational obstruction.

''(C) The Secretary is authorized to issue an easement or right-of-way for energy and related purposes as described in paragraph (1) on a competitive or noncompetitive basis. In determining whether such easement or right-of-way shall be granted competitively or noncompetitively, the Secretary shall consider such factors as prevention of waste and conservation of natural resources, economic viability of an energy project, protection of the environment, national interest, national security, human safety, protection of correlative rights, and potential return for the easement or right-of-way.

''(3) The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government and affected States, shall prescribe any necessary regulations to assure safety, protection of the environment, prevention of waste, and conservation of the natural resources of the Outer Continental Shelf, protection of national security interests, and protection of correlative rights therein.

''(4) The Secretary shall require the holder of an easement or right-of-way granted under this subsection to furnish a surety bond or other form of security, as prescribed by the Secretary, and to comply with such other requirements as the Secretary may deem necessary to protect the interests of the United States.

''(5) Nothing in this subsection shall be construed to displace, supersede, limit, or modify the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

''(6) This subsection shall not apply to any area on the Outer Continental Shelf designated as a National Marine Sanctuary.''.

(c) CONFORMING AMENDMENT.—The text of the heading for section 8 of the Outer Continental Shelf Lands Act is amended to read as follows: ''LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.''.

**SEC. 30215. DEADLINE FOR DECISION ON APPEALS OF CONSISTENCY DETERMINATIONS UNDER THE COASTAL ZONE MANAGEMENT ACT OF 1972.**

(a) IN GENERAL.—Section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) is amended to read as follows:

''APPEALS TO THE SECRETARY

''SEC. 319. (a) NOTICE.—The Secretary shall publish an initial notice in the Federal Register within 30 days after the date of the filing of any appeal to the Secretary of a consistency determination under section 307.

''(b) CLOSURE OF RECORD.—(1) No later than the end of 360-day period beginning on the date of publication of an initial notice under subsection (a), the Secretary shall receive no more filings on the appeal and the record of decision regarding the appeal shall be closed.

''(2) Upon the closure of the record of decision, the Secretary shall immediately publish a notice that the record of decision has been closed.

''(3) The Secretary may extend the period specified in paragraph (1) with respect to an appeal—

''(A) in accordance with the mutual agreement of the parties to the appeal; or

''(B) as needed to complete the development of any environmental analyses required under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

''(c) DEADLINE FOR DECISION.—The Secretary shall issue a decision in any appeal filed under section 307 no later than 90 days after the publication of a notice under subsection (b)(2).

''(d) APPLICATION.— This section applies to appeals initiated by the Secretary and appeals filed by an applicant.''.

(b) APPLICATION.—The amendment made by subsection (a)—

(1) shall apply with respect to any appeal initiated or filed on or after the date of the enactment of this Act; and

(2) shall not affect any appeal initiated or filed before the date of the enactment of this Act.

**SEC. 30216. TASK FORCE ON ENERGY PROJECT STREAMLINING.**

(a) FINDINGS.—The Congress finds that—

(1) increased production and transmission of energy in a safe and environmentally sound manner is essential to the well-being of the American people;

(2) on May 18, 2001, President George W. Bush signed Executive Order 13212 requiring agencies to expedite their review of permits of other actions as necessary to accelerate the completion of energy-related projects, while maintaining safety, public health, and environmental protections; and

(3) Executive Order 13212 established an interagency task force chaired by the Chairman of the Council on Environmental Quality to monitor and assist agencies in their efforts to expedite review of actions consistent with the Executive order, and to monitor and assist agencies in setting up appropriate mechanisms to coordinate Federal, State, tribal, and local permitting in geographic areas where increased permitting activity is expected.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Task Force established pursuant to Executive Order 13212 should remain in existence until such time as the President finds that the needs for which it was established have been met.

**SEC. 30217. PILOT PROGRAM ON NORTHERN ROCKY MOUNTAINS ENERGY RESOURCE MANAGEMENT.**

(a) FINDINGS.—The Congress finds that the task force established by President George W. Bush by the issuance of Executive Order 13212, and headed by the Chairman of the Council on Environmental Quality, has developed a pilot project the goals of which are—

(1) to reduce conflict, uncertainty, and the time involved in making decisions on energy resource management in the Northern Rocky Mountains;

(2) to establish a mechanism to provide for the coordination of Federal and State policy guidance regarding the development of regional energy resources and their transmission to markets;

(3) to institutionalize early collaboration and participation of all parties involved in regional decisions on environmental, economic and energy issues related to the exploration, development, and production of energy resources; and

(4) to take a long-term and regional view on how best to manage the energy resources in the Northern Rocky Mountains.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the task force should carry out this pilot project and report to the Congress no later than 36 months after the date of enactment of this Act on the progress it has made in accomplishing the goals set forth in subsection (a) of this section.

**SEC. 30218. ENERGY DEVELOPMENT FACILITATOR STUDY.**

(a) IN GENERAL.—The Chairman of the Council on Environmental Quality shall conduct a study to determine the feasibility of establishing under the Council the position of Facilitator for Energy Development, to coordinate Federal agency actions relating to energy project permitting. The study shall consider, among other matters—

(1) the ways in which a facilitator can facilitate the long-term coordination of energy projects on Federal lands; and

(2) the role of a facilitator in ensuring that the questions or concerns of permit applicants and other persons involved in energy projects are addressed in the agency.

(b) REPORT.—Not later than 12 months after the date of enactment of this section, the Chairman shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate detailing the findings of the study required by subsection (a), and including any legislative recommendations of the Chairman with respect to the establishment of the position studied.

**SEC. 30219. COMBINED HYDROCARBON LEASING.**

(a) SPECIAL PROVISIONS REGARDING LEASING.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)) is amended—

(1) by inserting ‘‘(A)’’ after ‘‘(2)’’; and

(2) by adding at the end the following:

‘‘(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this Act, separately—

‘‘(i) a lease for exploration for and extraction of tar sand; and

‘‘(ii) a lease for exploration for and development of oil and gas.

‘‘(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be $2 per acre.

‘‘(D) The Secretary may waive, suspend, or alter any requirement under section 26 that a permittee under a permit authorizing prospecting for tar sand must exercise due diligence, to promote any resource covered by a combined hydrocarbon lease.’’.

(b) CONFORMING AMENDMENT.—Section 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(B)) is amended in the second sentence by inserting ‘‘, subject to paragraph (2)(B),’’ after ‘‘The Secretary’’.

(c) REGULATIONS.—Within 45 days after the date of the enactment of this Act, the Secretary of the Interior shall issue final regulations to implement this section.

**SEC. 30220. COMPREHENSIVE INVENTORY OF OCS OIL AND NATURAL GAS RESOURCES.**

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Energy, key stakeholders including coastal States, and the oil and gas industry, shall conduct an inventory and analysis of oil and natural gas resources for areas beneath all of the United States waters of the Outer Continental Shelf. The inventory and analysis shall—

(1) provide resource estimates of oil and gas resources underlying those waters and estimate how those resource estimates may change if—

(A) geological and geophysical data could be gathered and analyzed;

(B) targeted exploration was allowed; and

(C) full resource development was allowed following successful exploration;

(2) analyze how resource estimates for such areas, including areas such as the deepwater and subsalt areas in the Gulf of Mexico, have changed over time as—

(A) geological and geophysical data was gathered;

(B) initial exploration occurred; and

(C) full field development occurred;

(3) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent to which they will affect domestic supply, including with respect to—

(A) leasing moratoria;

(B) lease terms and conditions;

(C) operational stipulations and requirements;

(D) approval delays by the Federal government and coastal States; and

(E) local zoning restrictions for onshore processing facilities and pipeline landings; and

(4) analyze the effect that understated oil and gas resource inventories have on domestic energy investments.

(b) PROCESS RECOMMENDATIONS.—In conjunction with the inventory and analysis, the Secretary of the Interior, in consultation with the Secretary of Energy, shall consult with key stakeholders to make recommendations for achieving a more balanced and environmentally sound energy policy for the Outer Continental Shelf. Key stakeholders to be consulted include Governors, conservation and environmental organizations, academia, the oil and gas industry, and the scientific and business communities. The Secretary of the Interior shall also make recommendations regarding processes that could be implemented that would lead to additional Outer Continental Shelf leasing and development of those resources for the benefit of the American public.

(c) REGULAR UPDATES.—After completion of the inventory, the Secretary shall regularly update estimates and identifications of restrictions to offshore development included in the inventory, and make such updates publicly available.

(d) SUBMISSION TO CONGRESS.—The inventory, analysis, and recommendations shall be provided to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 6 months after the date of enactment of this section.

(e) METHANE HYDRATE STUDY.—

(1) IN GENERAL.—The Secretary of the Interior shall study the occurrence and distribution of methane hydrates in the United States.

(2) REPORT.—The Secretary of the Interior shall submit a report to the Congress on the results of the study by not later than 3 years after the date of the enactment of this Act, including an estimate of the methane hydrate resources in the United States.

**SEC. 30221. ROYALTY PAYMENTS UNDER LEASES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.**

(a) ROYALTY RELIEF.—

(1) IN GENERAL.—For purposes of providing compensation for lessees and a State for which amounts are authorized by section 6004(c) of the Oil Pollution Act of 1980 (Public Law 101–380), a lessee may withhold from payment any royalty due and owing to the United States under any lease under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) for offshore oil or gas production from a covered lease tract if, on or before the date that the payment is due and payable to the United States, the lessee makes a payment to the State of 44 cents for every $1 of royalty withheld.

(2) TREATMENT OF WITHHELD AMOUNTS.—Any royalty withheld by a lessee in accordance with this section shall be treated as paid for purposes of satisfaction of the royalty obligations of the lessee to the United States.

(3) CERTIFICATION OF WITHHELD AMOUNTS.—The Secretary of the Treasury shall—

(A) determine the amount of royalty withheld by a lessee under this section; and

(B) promptly publish a certification when the total amount of royalty withheld by the lessee under this section is equal to the lessee’s share of the total drainage claim for the West Delta field (with interest) as described at page 47 of Senate Report number 101–534.

(b) PERIOD OF ROYALTY RELIEF.—Subsection (a) shall apply to royalty amounts that are due and payable in the period beginning on January 1, 2003, and ending on the date on which the Secretary publishes a certification under subsection (a)(3)(B).

(c) DEFINITIONS.—As used in this section:

(1) COVERED LEASE TRACT.—The term ''covered lease tract'' means a leased tract (or portion of a leased tract)—

(A) lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)); or

(B) lying within such zone but to which such section does not apply.

(2) LESSEE.—The term ''lessee'' means a person (including a successor or assign of a person) that, on the date of the enactment of the Oil Pollution Act of 1980, was a lessee referred to in section 6004(c) of that Act (as in effect on that date of the enactment), but did not hold lease rights in Federal offshore lease OCS–G–5669.

## TITLE III—BIOMASS ENERGY

**SEC. 30301. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, PETROLEUM-BASED PRODUCT SUBSTITUTES, AND OTHER COMMERCIAL PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) Thousands of communities in the United States, many located near Federal lands, are at risk to wildfire. Approximately 190,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future. The accumulation of heavy forest fuel loads continues to increase as a result of disease, insect infestations, and drought, further raising the risk of fire each year.

(2) In addition, more than 70,000,000 acres across all land ownerships are at risk to higher than normal mortality over the next 15 years from insect infestation and disease. High levels of tree mortality from insects and disease result in increased fire risk, loss of old growth, degraded watershed conditions, and changes in species diversity and productivity, as well as diminished fish and wildlife habitat and decreased timber values.

(3) Preventive treatments such as removing fuel loading, ladder fuels, and hazard trees, planting proper species mix and restoring and protecting early successional habitat, and other specific restoration treatments designed to reduce the susceptibility of forest land, woodland, and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest health by creating a mosaic of species-mix and age distribution. Such prevention treatments are widely acknowledged to be more successful and cost effective than suppression treatments in the case of insects, disease, and fire.

(4) The by-products of preventive treatment (wood, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest lands, woodlands and rangelands represent an abundant supply of biomass for biomass-to-energy facilities and raw material for business. There are currently few markets for the extraordinary volumes of by-products being generated as a result of the necessary large-scale preventive treatment activities.

(5) The United States should—

(A) promote economic and entrepreneurial opportunities in using by-products removed through preventive treatment activities related to hazardous fuels reduction, disease, and insect infestation; and

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for by-products of preventive treatment activities.

(b) DEFINITIONS.—In this section:

(1) BIOMASS.—The term ''biomass'' means trees and woody plants, including limbs, tops, needles, and other woody parts, and by-products of preventive treatment, such as wood, brush, thinnings, chips, and slash, that are removed—

(A) to reduce hazardous fuels; or

(B) to reduce the risk of or to contain disease or insect infestation.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(3) PERSON.—The term ''person'' includes—

(A) an individual;

(B) a community (as determined by the Secretary concerned);

(C) an Indian tribe;

(D) a small business, micro-business, or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(4) PREFERRED COMMUNITY.—The term ''preferred community'' means—

(A) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

(B) any county that—

(i) is not contained within a metropolitan statistical area; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(5) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture with respect to National Forest System lands; and

(B) the Secretary of the Interior with respect to Federal lands under the jurisdiction of the Secretary of the Interior and Indian lands.

(c) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products to offset the costs incurred to purchase biomass for use by such facility.

(2) GRANT AMOUNTS.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

(d) IMPROVED BIOMASS USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy, opportunities for the creation or expansion of small businesses and micro-businesses, and the potential for new job creation.

(3) GRANT AMOUNT.—A grant under this subsection may not exceed $100,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $50,000,000 for each of the fiscal years 2004 through 2014 to carry out this section.

(f) REPORT.—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources and the Committee on Agriculture of the House of Representatives a report describing the results of the grant programs authorized by this section. The report shall include the following:

(1) An identification of the size, type, and the use of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

## TITLE IV—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

**SEC. 30401. SHORT TITLE.**

This title may be cited as the ''Arctic Coastal Plain Domestic Energy Security Act of 2003''.

**SEC. 30402. DEFINITIONS.**

In this title:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as such in the map entitled ''Arctic National Wildlife Refuge'', dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)), comprising approximately 1,549,000 acres, and as described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) SECRETARY.—The term ''Secretary'', except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

**SEC. 30403. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.**

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement in accordance with this Act a competitive oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.) that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of the enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referred to in section 402(1).

(2) MANAGEMENT.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of the enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

**SEC. 30404. LEASE SALES.**

(a) IN GENERAL.—Lands may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) conduct the first lease sale under this title within 22 months after the date of the enactment of this Act; and

(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

**SEC. 30405. GRANT OF LEASES BY THE SECRETARY.**

(a) IN GENERAL.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 30404 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(b) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

**SEC. 30406. LEASE TERMS AND CONDITIONS.**

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, and the environment as required pursuant to section 30403(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

**SEC. 30407. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 30403, administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment; and

(2) require the application of the best commercially available technology for oil and

gas exploration, development, and production on all new exploration, development, and production operations.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times, if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or reduction of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC–ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LANDS.—The Secretary shall—

(1) manage public lands in the Coastal Plain subject to section subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

**SEC. 30408. EXPEDITED JUDICIAL REVIEW.**

(a) FILING OF COMPLAINT.—

(1) DEADLINE.—Subject to paragraph (2), any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title shall be filed in any appropriate district court of the United States—

(A) except as provided in subparagraph (B), within the 90-day period beginning on the date of the action being challenged; or

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of an action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this title and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this title shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

**SEC. 30409. FEDERAL AND STATE DISTRIBUTION OF REVENUES.**

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations authorized under this title—

(1) 50 percent shall be paid to the State of Alaska; and

(2) except as provided in section 30412(d) the balance shall be deposited into the Treasury as miscellaneous receipts.

(b) PAYMENTS TO ALASKA.—Payments to the State of Alaska under this section shall be made semiannually.

**SEC. 30410. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

(a) EXEMPTION.—Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral Leasing Act (30 U.S.C. 185) of rights-of-way and easements across the Coastal Plain for the transportation of oil and gas.

(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement referred to in subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) REGULATIONS.—The Secretary shall include in regulations under section 30403(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

**SEC. 30411. CONVEYANCE.**

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

**SEC. 30412. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.**

(a) FINANCIAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this title.

(2) ELIGIBLE ENTITIES.—The North Slope Borough, Kaktovik, and other boroughs, municipal subdivisions, villages, and any other community organized under Alaska State law shall be eligible for financial assistance under this section.

(b) USE OF ASSISTANCE.—Financial assistance under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects;

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services; and

(4) establishment of a coordination office, by the North Slope Borough, in the City of Kaktovik, which shall—

(A) coordinate with and advise developers on local conditions, impact, and history of the areas utilized for development; and

(B) provide to the Committee on Resources of the Senate and the Committee on Energy and Resources of the Senate an annual report on the status of coordination between developers and the communities affected by development.

(c) APPLICATION.—

(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) APPLICATION ASSISTANCE.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(d) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

(2) USE.—Amounts in the fund may be used only for providing financial assistance under this section.

(3) DEPOSITS.—Subject to paragraph (4), there shall be deposited into the fund amounts received by the United States as revenues derived from rents, bonuses, and royalties under on leases and lease sales authorized under this title.

(4) LIMITATION ON DEPOSITS.—The total amount in the fund may not exceed $11,000,000.

(5) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

## TITLE V—HYDROPOWER

**SEC. 30501. STUDY AND REPORT ON INCREASING ELECTRIC POWER PRODUCTION CAPABILITY OF EXISTING FACILITIES.**

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Administrator of each Federal power marketing administration, shall conduct a study of the potential for increasing electric power production capability at existing facilities under the administrative jurisdiction of the Secretary.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretary shall submit to the Congress a report on the findings, conclusions, and recommendations of the study under this section by not later than 12 months after the date of the enactment of this Act. The Secretary shall include in the report the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities the Secretary is currently conducting or considering, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of action that has already been taken by the Secretary to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility and the level of Federal power customer involvement in the Secretary's determination of such costs.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners.

(7) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by performing generator uprates and rewinds.

(8) The impact of increased hydroelectric power production on irrigation, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(9) Any additional recommendations the Secretary considers advisable to increase hydroelectric power production from, and reduce costs and improve efficiency at, facilities under the jurisdiction of the Secretary.

**SEC. 30502. STUDY AND IMPLEMENTATION OF INCREASED OPERATIONAL EFFICIENCIES IN HYDROELECTRIC POWER PROJECTS.**

(a) IN GENERAL.—The Secretary of Interior shall conduct a study of operational methods and water scheduling techniques at all hydroelectric power plants under the administrative jurisdiction of the Secretary that have an electric power production capacity greater than 50 megawatts, to—

(1) determine whether such power plants and associated river systems are operated so as to optimize energy and capacity capabilities; and

(2) identify measures that can be taken to improve operational flexibility at such plants to achieve such optimization.

(b) REPORT.—The Secretary shall submit a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act, including a summary of the determinations and identifications under paragraphs (1) and (2) of subsection (a). The Secretary shall include in the report the impact of optimized hydroelectric power production on irrigation, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(c) COOPERATION WITH FEDERAL POWER MARKETING ADMINISTRATIONS.—The Secretary shall coordinate with the Administrator of each Federal power marketing administration in determining how the value of electric power produced by each hydroelectric power facility that produces power marketed by the administration can be optimized.

**SEC. 30503. SHIFT OF PROJECT LOADS TO OFF-PEAK PERIODS.**

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS REQUIRED.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation and that would be affected by such adjustment.

(c) EXISTING OBLIGATIONS NOT AFFECTED.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities.

## TITLE VI—GEOTHERMAL ENERGY

**SEC. 30601. COMPETITIVE LEASE SALE REQUIREMENTS.**

(a) IN GENERAL.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

''LEASING PROCEDURES

''SEC. 4. (a) IN GENERAL.—

''(1) NOMINATIONS.—The Secretary shall accept nominations at any time from qualified companies and individuals of areas to be leased under this Act.

''(2) COMPETITIVE LEASE SALE REQUIRED.—The Secretary shall hold a competitive lease sale at least once every 2 years for lands in a State in that are located areas with respect to which there are nominations pending under paragraph (1).

''(3) NONCOMPETITIVE LEASING.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any lands for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.''.

(b) PENDING LEASE APPLICATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Interior shall initiate competitive lease sales under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), as amended by this Act, for areas with respect to which applications for leasing are pending on the date of the enactment of this Act.

**SEC. 30602. SPECIAL PROVISIONS REGARDING DIRECT USE OF LOW TEMPERATURE GEOTHERMAL ENERGY RESOURCES.**

(a) LEASING PROCEDURE.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is further amended by adding at the end the following:

''(b) LEASING OF LOW TEMPERATURE GEOTHERMAL RESOURCES.—Lands leased under this Act exclusively for qualified development and direct utilization of low temperature geothermal resources shall be leased to any qualified applicant who first applies for such lease under regulations formulated by the Secretary.''.

(b) LIMITATION ON LEASE AREA.—Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended—

(1) in the first sentence by striking ''A geothermal lease'' and inserting ''(a) IN GENERAL.—Except as provided in subsection (b), a geothermal lease''; and

(2) by adding at the end the following:

''(b) LEASING OF LOW TEMPERATURE GEOTHERMAL RESOURCES.—A geothermal lease for qualified development and direct utilization of low temperature geothermal resources shall embrace not more than the minimum amount of acreage determined by the Secretary to be reasonably necessary for such utilization.''.

(c) ANNUAL PAYMENT.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in paragraph (c) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B);

(2) by redesignating paragraphs (a) through (d) in order as paragraphs (1) through (4);

(3) by inserting ''(a) IN GENERAL.—'' after ''SEC. 5.''; and

(4) by adding at the end the following:

''(b) EXEMPTION FOR USE OF LOW TEMPERATURE RESOURCES.—

''(1) IN GENERAL.—In lieu of any royalty or rental under subsection (a), a lease for qualified development and direct utilization of low temperature geothermal resources shall provide for payment by the lessee of an annual fee per well of not less than $100, and not more than $1,000, in accordance with the schedule issued under paragraph (2).

''(2) SCHEDULE.—The Secretary shall issue a schedule of fees under this section under which a fee is based on the scale of development and utilization to which the fee applies.''.

(d) DEFINITIONS.—Section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001) is amended—

(1) in paragraph (f) by redesignating subparagraphs (1) through (4) in order as subparagraphs (A) through (D);

(2) by redesignating paragraphs (a) through (f) in order as paragraphs (1) through (6); and

(3) by adding at the end the following:

''(7) LOW TEMPERATURE GEOTHERMAL RESOURCES.—The term 'low temperature geothermal resources' means geothermal steam and associated geothermal resources having a wellhead temperature of less than 195 degrees Fahrenheit.

''(8) QUALIFIED DEVELOPMENT AND DIRECT UTILIZATION.—The term 'qualified development and direct utilization' means development and utilization in which all products of geothermal resources, other than any heat utilized, are returned to the geothermal formation from which they are produced.''.

(e) EXISTING LEASES.—

(1) APPLICATION TO CONVERT.—Any lessee under a lease under the Geothermal Steam Act of 1970 that was issued before the date of the enactment of this Act may apply to the Secretary of the Interior, by not later than 18 months after the date of the enactment of this Act, to convert such lease to a lease for qualified development and direct utilization of low temperature geothermal resources in accordance with the amendments made by this section.

(2) CONVERSION.—The Secretary shall approve such an application and convert such a lease to a lease in accordance with the amendments by not later than 180 days after receipt of such application, unless the Secretary determines that the applicant is not a qualified applicant with respect to the lease.

**SEC. 30603. ROYALTIES AND NEAR-TERM PRODUCTION INCENTIVES.**

(a) ROYALTY.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended in subsection (a) by striking paragraph (1) and inserting the following:

''(1) a royalty on direct use of geothermal steam and associated geothermal resources, other than low temperature geothermal resources, which shall be—

''(A) 3.5 percent of the gross proceeds from the sale of electricity produced by such resources; and

''(B) 0.75 percent of the gross proceeds from the sale of items produced by the direct use of such resources;''.

(b) NEAR-TERM PRODUCTION INCENTIVE.—

(1) IN GENERAL.—Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, as amended by subsection (a), or any provision of any lease under that Act, the royalty required to be paid—

(A) under any qualified geothermal energy lease with respect to commercial production of heat or energy from a facility that begins such production in the 6-year period beginning on the date of the enactment of this Act; or

(B) on qualified expansion geothermal energy;

shall be 50 percent of the amount of royalty otherwise required to be paid under those provisions.

(2) STATE SHARE.—Notwithstanding section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019), section 35 of the Mineral Leasing Act (30 U.S.C.191), or section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355), in the case of monies received by the United States from royalty described in subparagraph (A) or (B) of paragraph (1), the percentage required to be paid by the Secretary of the Treasury to a State under those sections shall be 100 percent.

(3) 4-YEAR APPLICATION.—Paragraphs (1) and (2) apply only to commercial production of heat or energy from a facility in the first 4 years of such production.

(4) NO EFFECT ON STATE PORTION.—This subsection shall not be construed to reduce the amount of royalty required to be paid to a State.

(c) DEFINITIONS.—In this section:

(1) QUALIFIED EXPANSION GEOTHERMAL ENERGY.—The term ''qualified expansion geothermal energy'' means geothermal energy produced from a generation facility for which—

(A) the production is increased by more than 10 percent as a result of expansion of the facility carried out in the 6-year period beginning on the date of the enactment of this Act; and

(B) such production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility.

(2) QUALIFIED GEOTHERMAL ENERGY LEASE.—The term ''qualified geothermal energy lease'' means a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.)—

(A) that was executed before the end of the 6-year period beginning on the date of the enactment of this Act; and

(B) under which no commercial production of any form of heat or energy occurred before the date of the enactment of this Act.

(d) ROYALTY EXISTING LEASES.—

(1) IN GENERAL.—Any lessee under a lease issued under the Geothermal Steam Act of 1970 before the date of the enactment of this Act may modify the terms of the lease relating to payment of royalties to comply with the amendment made by subsection (a), by applying to the Secretary of the Interior by not later than 18 months after the date of the enactment of this Act.

(2) APPLICATION OF MODIFICATION.—Such modification shall apply to any use of geothermal steam and associated geothermal resources to which the amendment applies that occurs after the date of that application.

**SEC. 30604. CONSULTATION REGARDING GEOTHERMAL LEASING AND PERMITTING ON PUBLIC LANDS.**

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to the Congress a memorandum of understanding in accordance with this section regarding leasing and permitting, for geothermal development, of public lands under their respective administrative jurisdictions.

(b) LEASE AND PERMIT APPLICATIONS.—The memorandum of understanding shall include provisions that—

(1) identify known geothermal areas on public lands within the National Forest System and when necessary review management plans to consider leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) as a land use;

(2) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and timeframes for application processing;

(3) provide that the Secretary concerned shall—

(A) within 14 days after receiving an application for a lease, determine whether the application contains sufficient information to allow processing of the application; and

(B) if the application is found not to contain sufficient information to allow processing the application the Secretary shall, before the end of such 14-day period, provide written notification to the lease applicant that the application is being returned to the applicant without processing and itemizing the deficiencies in the application that prevent processing;

(4) provide that the Secretary concerned shall within 30 days after receiving a lease application, provide written notice to the lease applicant regarding the status of the application, including an estimation of the time that will be required to complete action on the application; and

(5) establish an administrative procedure for processing geothermal development permits, including lines of authority, steps in permit processing, and timeframes for permit processing.

(c) FIVE-YEAR LEASING PLAN.—The memorandum of understanding shall develop a 5-year plan for leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of public land in the National Forest System. The plan for geothermal leasing shall be updated every 5 years.

(d) DATA RETRIEVAL SYSTEM.—The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and requests and providing to the applicant or requester information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

**SEC. 30605. REVIEW AND REPORT TO CONGRESS.**

The Secretary of the Interior shall promptly review and report to the Congress within 3 years after the date of the enactment of this Act regarding the status of all moratoria on and withdrawals from leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of known geothermal resources areas (as that term is defined in section 2 of that Act (30 U.S.C. 1001), specifying for each such area whether the basis for such moratoria or withdrawal still applies.

**SEC. 30606. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.**

(a) IN GENERAL.—The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by adding at the end the following:

''REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

''SEC. 30. (a) IN GENERAL.—The Secretary of the Interior may, through royalty credits, reimburse a person who is a lessee, operator, operating rights owner, or applicant for a lease under this Act for reasonable amounts paid by the person for preparation by the Secretary (or a contractor or other person selected by the Secretary) of any project-level analysis, documentation, or related study required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

''(b) CONDITIONS.—The Secretary may provide reimbursement under subsection (a) only if—

''(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

''(2) the person paid the amounts voluntarily; and

''(3) the person maintains records of its costs in accordance with regulations prescribed by the Secretary.''.

(b) APPLICATION.—The amendments made by this section shall apply with respect to any lease entered into before, on, or after the date of the enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendments made by this section by not later than 90 days after the date of the enactment of this Act.

**SEC. 30607. ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL.**

The Secretary of Interior, acting through the Director of the United States Geological Survey, shall update the 1978 Assessment of Geothermal Resources, and submit that updated assessment to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate—

(1) within 3 years after the date of enactment of this Act; and

(2) thereafter as the availability of data and developments in technology warrant.

**SEC. 30608. COOPERATIVE OR UNIT PLANS.**

(a) IN GENERAL.—Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

''COOPERATIVE OR UNIT PLANS

''SEC. 18. (a) ADOPTION OF PLAN BY LESSEES.—

''(1) IN GENERAL.—For the purpose of more properly conserving the natural resources of any geothermal field, or like area, or any part thereof (whether or not any part of the geothermal field, or like area, is then subject to any cooperative or unit plan of development or operation), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of such field, or like area, or any part thereof, if determined and certified by the Secretary to be necessary or advisable in the public interest.

''(2) MODIFICATION OF LEASE REQUIREMENTS BY SECRETARY.—The Secretary may, in the discretion of the Secretary, and with the consent of the holders of leases involved, establish, alter, change, or revoke drilling, producing, rental, minimum royalty, and royalty requirements of such leases and to make such regulations with reference to such leases, with the consent of the lessees, in connection with the institution and operation of any such cooperative or unit plan as the Secretary may deem necessary or proper to secure the proper protection of the public interest.

''(b) REQUIREMENT OF PLANS UNDER NEW LEASES.—The Secretary—

''(1) may provide that geothermal leases issued under this Act after the date of the enactment of this section shall contain a provision requiring the lessee to operate under such a reasonable cooperative or unit plan; and

''(2) may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

''(c) MODIFICATION OF RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION.—The Secretary may require that any plan authorized by the this section that applies to lands owned by the United States contain a provision under which authority is vested in the Secretary, or any person, committee, or State or Federal officer or agency as may be designated in the plan, to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan.

''(d) EXCLUSION FROM DETERMINATION OF HOLDING OR CONTROL.—Any lands that are subject to any plan approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under any provision of this Act.

''(e) POOLING OF CERTAIN LANDS.—If separate tracts of lands cannot be independently developed and operated to use geothermal steam and associated geothermal resources pursuant to this Act in conformity with an established development program—

''(1) any such lands, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, for purposes of such development and operation under a communitization agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the production unit, if such pooling is determined by the Secretary to be in the public interest; and

''(2) operation or production pursuant to such an agreement shall be treated as operation or production with respect to each tract of land that is subject to the agreement.

''(f) PLAN REVIEW.—No more than 5 years after approval of any cooperative or unit plan of development or operation, and at least every 5 years thereafter, the Secretary shall review each such plan and, after notice and opportunity for comment, eliminate from inclusion in such plan any lands that the Secretary determines are not reasonably necessary for cooperative or unit operations under the plan. Such elimination shall be based on scientific evidence, and shall occur only if it is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource. Any land so eliminated shall be eligible for an extension under subsection (c) or (g) of section 6 if it meets the requirements for such an extension.

''(g) APPROVAL BY SECRETARY.—The Secretary may, on such conditions as the Secretary may prescribe, approve operating, drilling, or development contracts made by one or more lessees of geothermal leases, with one or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience or necessity may require or the interests of the United States may be best served thereby. All leases operated under such approved operating, drilling, or development contracts, and interests thereunder, shall be excepted in determining holdings or control under section 7 of this Act.''.

**SEC. 30609. ROYALTY ON BYPRODUCTS.**

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended in subsection (a) by striking paragraph (2) and inserting the following:

''(2) a royalty on any byproduct that is a mineral named in the first section of the Mineral Leasing Act (30 U.S.C. 181), and that is derived from production under the lease, at the rate of the royalty that applies under that Act to production of such mineral under a lease under that Act;''.

**SEC. 30610. REPEAL OF AUTHORITIES OF SECRETARY TO READJUST TERMS, CONDITIONS, RENTALS, AND ROYALTIES.**

Section 8 of the Geothermal Steam Act of 1970 (30 U.S.C. 1007) is amended by repealing subsections (a) and (b), and by striking ''(c)''.

**SEC. 30611. CREDITING OF RENTAL TOWARD ROYALTY.**

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended—

(1) in subsection (a)(2) by inserting ''and'' after the semicolon at the end;

(2) in subsection (a)(3) by striking ''; and'' and inserting a period;

(3) by striking paragraph (4) of subsection (a); and

(4) by adding at the end the following:

''(c) CREDITING OF RENTAL TOWARD ROYALTY.—Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is owed shall be credited to the amount of royalty that is required to be paid under the lease for that year.''.

**SEC. 30612. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.**

(a) IN GENERAL.—Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended—

(1) by striking so much as precedes subsection (c), and striking subsections (e), (g), (h), (i), and (j);

(2) by redesignating subsections (c), (d), and (f) in order as subsections (g), (h), and (i);

(3) by inserting before subsection (g), as so redesignated, the following:

''LEASE TERM AND WORK COMMITMENT REQUIREMENTS

''SEC. 6. (a) PRIMARY TERM.—

''(1) IN GENERAL.—A geothermal lease shall be for a primary term of ten years.

''(2) INITIAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease for 5 years if, for each year after the fifth year of the lease—

''(A) the Secretary determined under subsection (c) that the lessee satisfied the work commitment requirements that applied to the lease for that year; or

''(B) the lessee paid in accordance with subsection (d) the value of any work that was not completed in accordance with those requirements.

''(3) ADDITIONAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease (after an extension under paragraph (2)) for an additional 5 years if, for each year after the fifteenth year of the lease, the Secretary determined under subsection (c) that the lessee satisfied the work commitment requirements that applied to the lease for that year.

''(b) REQUIREMENT TO SATISFY ANNUAL WORK COMMITMENT REQUIREMENT.—

''(1) IN GENERAL.—The lessee for a geothermal lease shall, for each year after the fifth year of the lease, satisfy work commitment requirements prescribed by the Secretary that apply to the lease for that year.

''(2) PRESCRIPTION OF WORK COMMITMENT REQUIREMENTS.—The Secretary shall issue regulations prescribing minimum work commitment requirements for geothermal leases, that—

''(A) require that a lessee, in each year after the fifth year of the primary term of a geothermal lease, diligently work to achieve commercial production or utilization of steam under the lease;

''(B) require that in each year to which work commitment requirements under the regulations apply, the lessee shall significantly reduce the amount of work that remains to be done to achieve such production or utilization;

''(C) describe specific work that must be completed by a lessee by the end of each year to which the work commitment requirements apply;

''(D) carry forward and apply to work commitment requirements for a year, work completed in any year in the preceding 3-year period that was in excess of the work required to be performed in that preceding year; and

''(E) establish transition rules for leases issued before the date of the enactment of this subsection.

''(3) TERMINATION OF APPLICATION OF REQUIREMENTS.—Work commitment requirements prescribed under this subsection shall not apply to a geothermal lease after the date on which geothermal steam is produced or utilized under the lease in commercial quantities.

''(c) DETERMINATION OF WHETHER REQUIREMENTS SATISFIED.—The Secretary shall, by not later than 21 days after the end of each year for which work commitment requirements under subsection (b) apply to a geothermal lease—

''(1) determine whether the lessee has satisfied the requirements that apply for that year;

''(2) notify the lessee of that determination; and

''(3) in the case of a notification that the lessee did not satisfy work commitment requirements for the year, include in the notification—

''(A) a description of the specific work that was not completed by the lessee in accordance with the requirements; and

''(B) the amount of the dollar value of such work that was not completed, reduced by the amount of expenditures made for work completed in a prior year that is carried forward pursuant to subsection (b)(2)(D).

''(d) PAYMENT OF VALUE OF UNCOMPLETED WORK.—

''(1) IN GENERAL.—If the Secretary notifies a lessee that the lessee failed to satisfy work commitment requirements under subsection (b), the lessee shall pay to the Secretary, by not later than the end of the 60-day period beginning on the date of the notification, the dollar value of work that was not completed by the lessee, in the amount stated in the notification (as reduced under subsection (c)(3)(B)).

''(2) FAILURE TO PAY VALUE OF UNCOMPLETED WORK.—If a lessee fails to pay such amount to the Secretary before the end of that period, the lease shall terminate upon the expiration of the period.

''(e) CONTINUATION AFTER COMMERCIAL PRODUCTION OR UTILIZATION.—If geothermal steam is produced or utilized in commercial quantities within the primary term of the lease under subsection (a) (including any extension of the lease under subsection (a)), such lease shall continue until the date on which geothermal steam is no longer produced or utilized in commercial quantities.

''(f) CONVERSION OF GEOTHERMAL LEASE TO MINERAL LEASE.—The lessee under a lease that has produced geothermal steam for electrical generation, has been determined by the Secretary to be incapable of any further commercial production or utilization of geothermal steam, and that is producing any valuable byproduct in payable quantities may, within 6 months after such determination—

''(1) convert the lease to a mineral lease under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), if the lands that are subject to the lease can be leased under that Act for the production of such byproduct; or

''(2) convert the lease to a mining claim under the general mining laws, if the byproduct is a locatable mineral.''.

(b) CONFORMING AMENDMENT.—

(1) Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended by striking ''subsection (c) or (g)'' and inserting ''subsection (g)''.

(2) Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended by striking '', including the payments referred to in section 6(i),''.

**SEC. 30613. ADVANCED ROYALTIES REQUIRED FOR SUSPENSION OF PRODUCTION.**

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended by adding at the end the following:

''(d) ADVANCED ROYALTIES REQUIRED FOR SUSPENSION OF PRODUCTION.—(1) If production of heat or energy under a geothermal lease is suspended after the date of any such production for which royalty is required under section 5(a), the Secretary shall require the lessee, until the end of such suspension, to pay royalty in advance at the monthly pro-rata rate of the average annual rate at which such royalty was paid each year in the 5-year-period preceding the date of suspension.

''(2) Paragraph (1) shall not apply if the suspension is required or otherwise caused by the Secretary, the Secretary of a military department, or a State or local government.''.

**SEC. 30614. ANNUAL RENTAL.**

(a) ANNUAL RENTAL RATE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended in subsection (a) in paragraph (3) by striking ''$1 per acre or fraction thereof for each year of the lease'' and all that follows through the end of the paragraph and inserting ''$1 per acre or fraction thereof for each year of the lease in the case of a lease awarded in a noncompetitive lease sale; or $2 per acre or fraction thereof for the first year, $3 per acre or fraction thereof for each of the second through tenth years, and $5 per acre or fraction thereof for each year after the 10th year thereof, in the case of a lease awarded in a competitive lease sale; and''.

(b) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended by adding at the end the following:

''(e) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—

''(1) IN GENERAL.—The Secretary shall terminate any lease with respect to which rental is not paid in accordance with this Act and the terms of the lease under which the rental is required, upon the expiration of the 45-day period beginning on the date of the failure to pay such rental.

''(2) NOTIFICATION.—The Secretary shall promptly notify a lessee that has not paid rental required under the lease that the lease will be terminated at the end of the period referred to in paragraph (1).

''(3) REINSTATEMENT.—A lease that would otherwise terminate under paragraph (1) shall not terminate under that paragraph if the lessee pays to the Secretary, before the end of the period referred to in paragraph (1), the amount of rental due plus a late fee equal to 10 percent of such amount.''.

## TITLE VII—COAL

**SEC. 30701. SHORT TITLE.**

This title may be cited as the ''Coal Leasing Amendments Act of 2003''.

**SEC. 30702. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.**

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended in the first sentence by striking ''such lease,'' and all that follows through the end of the sentence and inserting ''such lease.''.

**SEC. 30703. MINING PLANS.**

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period—

''(i) will ensure the maximum economic recovery of a coal deposit; or

''(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.''.

**SEC. 30704. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.**

(a) IN GENERAL.—Section 7(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 207(b)) is amended to read as follows:

''(b)(1) Each lease shall be subjected to the condition of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

''(2)(A) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

''(B) Such advance royalties shall be computed based on the average price for coal sold in the spot market from the same region during the last month of each applicable continued operation year.

''(C) The aggregate number of years during the initial and any extended term of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20.

"(3) The amount of any production royalty paid for any year shall be reduced (but not below zero) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.

"(4) This subsection shall be applicable to any lease or logical mining unit in existence on the date of the enactment of this paragraph or issued or approved after such date.

"(5) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of 10 years.".

(b) AUTHORITY TO WAIVE, SUSPEND, OR REDUCE ADVANCE ROYALTIES.—Section 39 of the Mineral Leasing Act (30 U.S.C. 209) is amended by striking the last sentence.

**SEC. 30705. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.**

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking "and not later than three years after a lease is issued,".

**SEC. 30706. AMENDMENTS RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.**

(a) PROHIBITION ON REQUIRING SURETY BONDS.—Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

"(4) The Secretary shall not require a surety bond or any other financial assurance to guarantee payment of deferred bonus bid installments with respect to any coal lease issued based upon a cash bonus bid.

"(5) Notwithstanding any other provision of law, if the lessee under a coal lease fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of such installment is past due—

"(A) such lease shall automatically terminate;

"(B) any deferred bonus payments that have not been paid to the United States with respect to such lease shall no longer be owed to the United States; and

"(C) any bonus payments already made to the United States with respect to such lease shall not be returned to the lessee or credited in any future lease sale.".

(b) CONFORMING AMENDMENT.—Section 2(a)(1) of the Mineral Leasing Act (30 U.S.C. 201(a)(1)) is amended by striking "Upon default or cancellation of any coal lease for which bonus payments are due, any unpaid remainder of the bid shall be immediately payable to the United States.".

**SEC. 30707. INVENTORY REQUIREMENT.**

(a) REVIEW OF ASSESSMENTS.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall review coal assessments and other available data to identify—

(A) public lands with coal resources;

(B) the extent and nature of any restrictions or impediments to the development of coal resources on public lands identified under paragraph (1); and

(C) with respect to areas of such lands for which sufficient data exists, resources of compliant coal and supercompliant coal.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "compliant coal" means coal that contains not less than 1.0 and not more than 1.2 pounds of sulfur dioxide per million Btu; and

(B) the term "supercompliant coal" means coal that contains less than 1.0 pounds of sulfur dioxide per million Btu.

(b) COMPLETION AND UPDATING OF THE INVENTORY.—The Secretary—

(1) shall complete the inventory under subsection (a) by not later than 2 years after the date of the enactment of this Act; and

(2) shall update the inventory as the availability of data and developments in technology warrant.

(c) REPORT.—The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available—

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

**SEC. 30708. APPLICATION OF AMENDMENTS.**

The amendments made by this title apply with respect to any coal lease issued before, on, or after the date of the enactment of this Act.

## TITLE VIII—INSULAR AREAS ENERGY SECURITY

**SEC. 30801. INSULAR AREAS ENERGY SECURITY.**

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved December 24, 1980 (Public Law 96–597; 94 Stat. 3480–3481), is amended—

(1) in subsection (a)(4) by striking the period and inserting a semicolon;

(2) by adding at the end of subsection (a) the following new paragraphs:

"(5) electric power transmission and distribution lines in insular areas are inadequate to withstand damage caused by the hurricanes and typhoons which frequently occur in insular areas and such damage often costs millions of dollars to repair; and

"(6) the refinement of renewable energy technologies since the publication of the 1982 Territorial Energy Assessment prepared pursuant to subsection (c) reveals the need to reassess the state of energy production, consumption, infrastructure, reliance on imported energy, and indigenous sources in regard to the insular areas.";

(3) by amending subsection (e) to read as follows:

"(e)(1) The Secretary of the Interior, in consultation with the Secretary of Energy and the chief executive officer of each insular area, shall update the plans required under subsection (c) by—

"(A) updating the contents required by subsection (c);

"(B) drafting long-term energy plans for such insular areas with the objective of reducing, to the extent feasible, their reliance on energy imports by the year 2010 and maximizing, to the extent feasible, use of indigenous energy sources; and

"(C) drafting long-term energy transmission line plans for such insular areas with the objective that the maximum percentage feasible of electric power transmission and distribution lines in each insular area be protected from damage caused by hurricanes and typhoons.

"(2) Not later than May 31, 2004, the Secretary of the Interior shall submit to the Congress the updated plans for each insular area required by this subsection."; and

(4) by amending subsection (g)(4) to read as follows:

"(4) POWER LINE GRANTS FOR TERRITORIES.—

"(A) IN GENERAL.—The Secretary of the Interior is authorized to make grants to governments of territories of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such territories from damage caused by hurricanes and typhoons.

"(B) ELIGIBLE PROJECTS.—The Secretary may award grants under subparagraph (A) only to governments of territories of the United States that submit written project plans to the Secretary for projects that meet the following criteria:

"(i) The project is designed to protect electric power transmission and distribution lines located in one or more of the territories of the United States from damage caused by hurricanes and typhoons.

"(ii) The project is likely to substantially reduce the risk of future damage, hardship, loss, or suffering.

"(iii) The project addresses one or more problems that have been repetitive or that pose a significant risk to public health and safety.

"(iv) The project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate. The cost benefit analysis required by this criterion shall be computed on a net present value basis.

"(v) The project design has taken into consideration long-term changes to the areas and persons it is designed to protect and has manageable future maintenance and modification requirements.

"(vi) The project plan includes an analysis of a range of options to address the problem it is designed to prevent or mitigate and a justification for the selection of the project in light of that analysis.

"(vii) The applicant has demonstrated to the Secretary that the matching funds required by subparagraph (D) are available.

"(C) PRIORITY.—When making grants under this paragraph, the Secretary shall give priority to grants for projects which are likely to—

"(i) have the greatest impact on reducing future disaster losses; and

"(ii) best conform with plans that have been approved by the Federal Government or the government of the territory where the project is to be carried out for development or hazard mitigation for that territory.

"(D) MATCHING REQUIREMENT.—The Federal share of the cost for a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.

"(E) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—Grants provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.

"(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $5,000,000 for each fiscal year beginning after the date of the enactment of this paragraph.".

## TITLE IX—MISCELLANEOUS PROVISIONS

**SEC. 30901. REPORT ON ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LANDS.**

(a) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, the Secretary of Agriculture and the Secretary of the Interior, in consultation with the Secretaries of Commerce, Defense, and Energy and the Federal Energy Regulatory Commission, shall submit to the Committees on Energy and Commerce and Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a joint report—

(A) addressing—

(i) the location of existing rights-of-way and designated and de facto corridors for oil and gas pipelines and electric transmission and distribution facilities on Federal lands; and

(ii) opportunities for additional oil and gas pipeline and electric transmission capacity within such rights-of-way and corridors; and

(B) containing a plan for making available, upon request, to the appropriate Federal, State, and local agencies, tribal governments, and other persons involved in the siting of oil and gas pipelines and electricity transmission facilities Geographic Information System-based information regarding the location of such existing rights-of-way and corridors and any planned rights-of-way and corridors.

(2) CONSULTATIONS AND CONSIDERATIONS.—In undertaking the report, the Secretary of the Interior and the Secretary of Agriculture shall consult with—

(A) other agencies of Federal, State, tribal, or local units of government as appropriate;

(B) persons involved in the siting of oil and gas pipelines and electric transmission facilities; and

(C) other interested members of the public.

(3) LIMITATION.—The Secretary of the Interior and the Secretary of Agriculture shall limit the distribution of the report and Geographic Information System-based information referred to in paragraph (1) as necessary for national and infrastructure security reasons, if either Secretary determines that such information is authorized to be withheld from public disclosure pursuant to a national security or other exception under section 552(b) of title 5, United States Code (popularly known as the ''Freedom of Information Act'').

(b) CORRIDOR DESIGNATIONS.—

(1) WITHIN THE 11 CONTIGUOUS WESTERN STATES.—Not later than 24 months after the date of the enactment of this section, the Secretaries of Agriculture, Commerce, Defense, Energy, and the Interior, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, jointly shall—

(A) designate, pursuant to title 5 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.), and other applicable Federal laws, corridors needed or useful for oil and gas pipelines and electricity transmission and facilities on Federal lands in the eleven contiguous Western States as that term is defined in section 103(o) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(o));

(B) perform any environmental reviews that may be required to complete the designations of corridors for such facilities on Federal lands in those States; and

(C) incorporate the designated corridors into the relevant departmental and agency land use and resource management plans or the equivalent.

(2) WITHIN THE REMAINING STATES.—Not later than 4 years after the date of the enactment of this section, the Secretaries of Agriculture, Commerce, Defense, Energy, and the Interior, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, jointly shall identify corridors needed or useful for oil and gas pipelines and electricity transmission and distribution facilities on Federal lands in the States other than those described in paragraph (1), and shall schedule prompt action to identify, designate, and incorporate these corridors into the land use plan.

(3) ONGOING RESPONSIBILITIES.—The Secretaries of Agriculture, Commerce, Defense, Energy, and the Interior, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall ensure that additional corridors as may be needed or useful for oil and gas pipelines and electricity transmission and distribution facilities on Federal lands are promptly designated. The Secretaries shall provide a process for the prompt review of applications for such corridors.

(c) FACTORS TO CONSIDER.—When carrying out this section, the Secretaries shall take into account the need for upgraded and new electricity transmission and distribution facilities to improve reliability, relieve congestion, and enhance the capability of the national grid to deliver electricity.

(d) DEFINITION OF CORRIDOR.—As used in this section and for purposes of title V of the Federal Land Policy and Management Act of 1976, the term 'corridor' shall mean a linear strip of land without definite width, but limited by technological, environmental, and topographical factors, and that contains or may in the future contain one or more utility, communication, or transportation facilities. A corridor is a land use designation identified for the purpose of establishing policy direction as to the preferred location of compatible linear facilities and compatible and conflicting land uses. It does not imply entitlement of use or limits as to siting facilities in additional locations. Appropriate environmental review and regulatory permitting reflecting work already undertaken in the designation of a corridor shall precede occupancy on a project-specific basis.

**SEC. 30902. ELECTRICITY TRANSMISSION LINE RIGHT-OF-WAY, CLEVELAND NATIONAL FOREST AND ADJACENT PUBLIC LANDS, CALIFORNIA.**

(a) ISSUANCE.—Subject to subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall issue all necessary grants, easements, permits, plan amendments, and other approvals to allow for the siting and construction of a high-voltage electricity transmission line right-of-way running approximately north to south through the Trabuco Ranger District of the Cleveland National Forest in the State of California and adjacent lands under the jurisdiction of the Bureau of Land Management and the Forest Service. The right-of-way approvals shall provide all necessary Federal authorization from the Secretary of the Interior and the Secretary of Agriculture for the routing, construction, operation, and maintenance of a 500 KV transmission line capable of meeting the long-term electricity transmission needs of the region between the existing Valley-Serrano transmission line to the north and the Telega–Escondido transmission line to the south, and for connecting to future generating capacity that may be developed in the region.

(b) PROTECTION OF WILDERNESS AREAS.—The Secretary of the Interior and the Secretary of Agriculture shall not allow any portion of a transmission line right-of-way corridor identified in subsection (a) to enter any identified wilderness area in existence as of the date of the enactment of this section.

(c) ENVIRONMENTAL AND ADMINISTRATIVE REVIEWS.—

(1) DEPARTMENT OF INTERIOR OR LOCAL AGENCY.—The Secretary of the Interior, acting through the Bureau of Land Management, shall be the lead Federal agency with overall responsibility to ensure completion of required environmental and other reviews of the approvals to be issued under subsection (a).

(2) NATIONAL FOREST SYSTEM LAND.—For the portions of the corridor on National Forest System lands, the Secretary of Agriculture shall complete all required environmental reviews and administrative actions in coordination with the Secretary of the Interior.

(3) EXPEDITIOUS COMPLETION.—The reviews required for issuance of the approvals under subsection (a) shall be completed not later than 1 year after the date of the enactment of this Act.

(d) TIME FOR ISSUANCE.—The necessary grants, easements, permits, plan amendments, and other approvals for the transmission line right-of-way shall be issued not later than 60 days after the completion of the environmental reviews under subsection (c).

(e) OTHER TERMS AND CONDITIONS.—The transmission line right-of-way shall be subject to such terms and conditions as the Secretary of the Interior and the Secretary of Agriculture consider necessary, as a result of the environmental reviews under subsection (c), to protect the value of historic, cultural, and natural resources under the jurisdiction of the Department of the Interior or the Department of Agriculture.

(f) PREFERENCE AMONG PROPOSALS.—The Secretary of the Interior and the Secretary of Agriculture shall give a preference to any application or preapplication proposal for a transmission line right-of-way, as described in subsection (a), that was submitted before December 31, 2002, over all other applications and proposals for the same or similar right-of-way submitted on or after that date.

**SEC. 30903. CONSULTATION REGARDING ENERGY RIGHTS-OF-WAY ON PUBLIC LANDS.**

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into, and submit to the Congress, a memorandum of understanding in accordance with this section regarding the processing of new applications for linear rights of way for electrical transmission lines and oil or gas pipelines on public lands within the jurisdiction of the Secretary of the Interior and National Forest System lands within the jurisdiction of the Secretary of Agriculture.

(b) CONTENTS.—The memorandum of understanding shall include provisions that—

(1) establish an administrative procedure for processing right-of-way applications, including lines of authority, steps in application processing, and timeframes for application processing;

(2) provide for coordination of planning relating to the granting of these rights-of-way;

(3) provide for coordination of environmental compliance efforts to avoid duplication of effort; and

(4) provide for coordination of use of right-of-way stipulations to achieve consistency.

**SEC. 30904. ENHANCING ENERGY EFFICIENCY IN MANAGEMENT OF FEDERAL LANDS.**

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) ENERGY EFFICIENT BUILDINGS.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to incorporate energy efficient technologies in public and administrative buildings associated with management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

(c) ENERGY EFFICIENT VEHICLES.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

**SEC. 30905. PERMITTING OF WIND ENERGY DEVELOPMENT PROJECTS ON PUBLIC LANDS.**

(a) REQUIRED POLICIES AND PROCEDURES.—The Secretary of the Interior shall process right-of-way applications for wind energy site testing and monitoring facilities on public lands administered by the Bureau of Land

Management in accordance with policies and procedures that are substantially the same as those set forth in Bureau of Land Management Instruction Memorandum No. 2003-020, dated October 16, 2002.

(b) LIMITATION ON RENT AND OTHER CHARGES.—

(1) IN GENERAL.—The Secretary of the Interior may not impose rent and other charges with respect to any wind energy development project on public lands that, in the aggregate, exceed 50 percent of the maximum amount of rent that could be charged with respect to that project under the terms of the Bureau of Land Management Instruction Memorandum referred to in subsection (a).

(2) TERMINATION.—Paragraph (1) shall not apply after the earlier of—

(A) the date on which the Secretary of the Interior determines there exists at least 10,000 megawatts of electricity generating capacity from non-hydropower renewable energy resources on public lands; or

(B) the end of the 10-year period beginning on the date of the enactment of this Act.

(3) STATE SHARE NOT AFFECTED.—This subsection shall not affect any State share of rent and other charges with respect to any wind energy development project on public lands.

**SEC. 30906. SENSE OF THE CONGRESS REGARDING GENERATION CAPACITY OF ELECTRICITY FROM RENEWABLE ENERGY RESOURCES ON PUBLIC LANDS.**

It is the sense of the Congress that the Secretary of the Interior shall, within the next 10 years after the date of the enactment of this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.

**SEC. 30907. ASSESSMENT OF OCEAN THERMAL ENERGY RESOURCES.**

(a) RESOURCE ASSESSMENT.—Not later than 3 months after the date of the enactment of this Act, and each year thereafter, the Secretary of the Interior shall—

(1) review assessments of ocean thermal energy resources, other than resources of any area of the Outer Continental Shelf that is subject to a moratorium on leasing for energy exploration or development, that are available in the United States and its territories and possessions; and

(2) undertake new assessments of such resources as necessary.

(b) CONSIDERATIONS.—In reviewing and undertaking assessments under subsection (a), the Secretary shall take into account changes in market conditions, available technologies, and other relevant factors.

(c) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and each year thereafter, the Secretary shall publish a report on reviews and assessments under subsection (a). Each report shall contain—

(1) a detailed inventory of the available amount and characteristics of ocean thermal energy resources;

(2) estimates of the costs of actions needed to develop and accelerate efforts to commercialize ocean thermal energy conversion; and

(3) such other information as the Secretary considers would be useful in developing ocean thermal energy resources.

**SEC. 30908. SENSE OF THE CONGRESS REGARDING DEVELOPMENT OF MINERALS UNDER PADRE ISLAND NATIONAL SEASHORE.**

(a) FINDINGS.—The Congress finds the following:

(1) Pursuant to Public Law 87–712 (16 U.S.C. 459d et seq.; popularly known as the ''Federal Enabling Act'') and various deeds and actions thereunder, the United States is the owner of the surface estate only of certain lands constituting the Padre Island National Seashore.

(2) Ownership of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore was never acquired by the United States and ownership of those interests are held by the State of Texas and private parties.

(3) The Federal Enabling Act expressly contemplated that the United States would recognize the ownership and future development of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore by the owners and their mineral lessees and recognized that approval of the State of Texas was required to create Padre Island National Seashore.

(4) Approval was given for the creation of Padre Island National Seashore by the State of Texas through TEX. REV. CIV. STAT. ANN. Art. 6077(t) (Vernon 1970), which expressly recognized that development of the oil, gas, and other minerals in the subsurface of the lands constituting Padre Island National Seashore would be conducted with full rights of ingress and egress under the laws of the State of Texas.

(b) SENSE OF THE CONGRESS.—With regard to Federal law, any regulation of the development of oil, gas, or other minerals in the subsurface of the lands constituting Padre Island National Seashore should be made as if those lands retained the status that they had on September 27, 1962.

## DIVISION D—TAX

**SEC. 40001. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This division may be cited as the ''Energy Tax Policy Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

## TITLE I—CONSERVATION

**SEC. 41001. CREDIT FOR RESIDENTIAL SOLAR ENERGY PROPERTY.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

**''SEC. 25C. RESIDENTIAL SOLAR ENERGY PROPERTY.**

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year, and

''(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

''(A) $2,000 for each system of property described in subsection (c)(1), and

''(B) $2,000 for each system of property described in subsection (c)(2).

''(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating equipment, such equipment is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

''(B) in the case of a photovoltaic system, such system meets appropriate fire and electric code requirements.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence if at least half of the energy used by such property for such purpose is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1) or (2) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

''(5) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

''(d) SPECIAL RULES.—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(C) Subparagraphs (A) and (B) shall be applied separately with respect to qualified solar water heating property expenditures and qualified photovoltaic property expenditures.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(A)).

''(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2006 (December 31, 2008, with respect to qualified photovoltaic property expenditures).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Residential solar energy property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2003.

**SEC. 41002. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.**

(a) EXTENSION OF CREDIT FOR WIND AND CLOSED-LOOP BIOMASS FACILITIES.—Subparagraphs (A) and (B) of section 45(c)(3) are each amended by striking ''2004'' and inserting ''2007''.

(b) EXPANSION OF CREDIT FOR OPEN-LOOP BIOMASS, LANDFILL GAS FACILITIES, AND TRASH COMBUSTION FACILITIES.—Paragraph (3) of section 45(c) is amended by adding at the end the following new subparagraphs:

''(D) OPEN-LOOP BIOMASS FACILITIES.—In the case of a facility using open-loop biomass to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

''(E) LANDFILL GAS FACILITIES.—In the case of a facility producing electricity from gas derived from the biodegradation of municipal solid waste, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

''(F) TRASH COMBUSTION FACILITIES.—In the case of a facility which burns municipal solid waste to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.''.

(c) DEFINITION AND SPECIAL RULES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraphs:

''(5) OPEN-LOOP BIOMASS.—The term 'open-loop biomass' means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

''(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush,

''(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled, or

''(C) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

Such term shall not include closed-loop biomass.

''(6) REDUCED CREDIT FOR CERTAIN PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in subparagraph (D) or (E) of paragraph (3) which is placed in service before the date of the enactment of this paragraph—

''(A) subsection (a)(1) shall be applied by substituting '1.0 cents' for '1.5 cents', and

''(B) the 5-year period beginning on the date of the enactment of this paragraph shall be substituted in lieu of the 10-year period in subsection (a)(2)(A)(ii).

''(7) CREDIT ELIGIBILITY FOR OPEN-LOOP BIOMASS FACILITIES.—In the case of any facility described in paragraph (3)(D) which is placed in service before the date of enactment of this paragraph, if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.

''(8) LIMIT ON REDUCTIONS FOR GRANTS, ETC., FOR OPEN-LOOP BIOMASS FACILITIES.—If the amount of the credit determined under subsection (a) with respect to any open-loop biomass facility is required to be reduced under paragraph (3) of subsection (b), the fraction under such paragraph shall in no event be greater than ½.

''(9) COORDINATION WITH SECTION 29.—The term 'qualified facility' shall not include any facility the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.''.

(d) QUALIFIED ENERGY RESOURCES.—Paragraph (1) of section 45(c) (relating to qualified energy resources) is amended to read as follows:

''(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means any resource described in paragraph (3) which is used to generate electricity at a qualified facility.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 41003. CREDIT FOR QUALIFIED FUEL CELL POWER PLANTS.**

(a) BUSINESS PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) equipment which is part of a qualified fuel cell power plant,''.

(2) QUALIFIED FUEL CELL POWER PLANT.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED FUEL CELL POWER PLANT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified fuel cell power plant' means a fuel cell power plant that has an electricity-only generation efficiency greater than 30 percent.

''(B) LIMITATION.—The energy credit with respect to any qualified fuel cell power plant for any taxable year shall not exceed—

''(i) $500 for each ½ kilowatt of capacity of the power plant, reduced by

''(ii) the aggregate energy credits allowed with respect to such power plant for all prior taxable years.

''(C) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

''(D) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(b) NONBUSINESS PROPERTY.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25C the following new section:

**''SEC. 25D. NONBUSINESS QUALIFIED FUEL CELL POWER PLANT.**

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the qualified fuel cell power plant expenditures which are paid or incurred during such year.

''(b) LIMITATIONS.—The credit allowed under subsection (a) with respect to any qualified fuel cell power plant for any taxable year shall not exceed—

''(1) $500 for each ½ kilowatt of capacity of the power plant, reduced by

''(2) the aggregate energy credits allowed with respect to such power plant for all prior taxable years.

''(c) QUALIFIED FUEL CELL POWER PLANT EXPENDITURES.—For purposes of this section, the term 'qualified fuel cell power plant expenditures' means expenditures by the taxpayer for any qualified fuel cell power plant (as defined in section 48(a)(4))—

''(1) which meets the requirements of subparagraphs (B) and (D) of section 48(a)(3), and

''(2) which is installed on or in connection with a dwelling unit—

''(A) which is located in the United States, and

''(B) which is used by the taxpayer as a residence.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(d) SPECIAL RULES.—For purposes of this section, rules similar to the rules of section 25C(d) shall apply.

''(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—This section shall not apply to any expenditure made after December 31, 2006.''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 25D(e), in the case of amounts with respect to which a credit has been allowed under section 25D.''.

(B) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25C the following new item:

''Sec. 25D. Nonbusiness qualified fuel cell power plant.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred after December 31, 2003, in taxable years ending after such date.

**SEC. 41004. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

**''SEC. 25E. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.**

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $2,000.

''(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $2,000 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code (or, in the case of metal roofs with appropriate pigmented coatings, meets the Energy Star program requirements), if—

''(1) such component is installed in or on a dwelling—

''(A) located in the United States, and

''(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component commences with the taxpayer, and

''(3) such component reasonably can be expected to remain in use for at least 5 years.

If the aggregate cost of such components with respect to any dwelling exceeds $1,000, such components shall be treated as qualified energy efficiency improvements only if such components are also certified in accordance with subsection (e) as meeting such criteria.

''(e) CERTIFICATION.—The certification described in subsection (d) shall be—

''(1) determined on the basis of the technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency, based upon energy use or building envelope component performance, for the energy efficient building envelope component,

''(2) provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider who is accredited by or otherwise authorized to use approved energy performance measurement methods by the Residential Energy Services Network (RESNET), and

''(3) made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components installed and their respective energy efficiency levels.

''(f) DEFINITIONS AND SPECIAL RULES.—

''(1) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(2) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having paid his proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(3) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling when installed in or on such dwelling, exterior windows (including skylights) and doors, and metal roofs with appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of a dwelling when installed in or on such dwelling.

''(4) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations, as in effect on April 3, 2003).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) APPLICATION OF SECTION.—This section shall apply to qualified energy efficiency improvements installed after December 31, 2003, and before January 1, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 23 is amended by striking ''section 1400C'' and inserting ''sections 25E and 1400C''.

(2) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', and'', and by adding at the end the following new paragraph:

''(31) to the extent provided in section 25E(g), in the case of amounts with respect to which a credit has been allowed under section 25E.''.

(3) Subsection (d) of section 1400C is amended by inserting ''and section 25E'' after ''this section''.

(4) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Energy efficiency improvements to existing homes.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2003.

**SEC. 41005. BUSINESS CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 45F the following new section:

**''SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.**

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualified new energy efficient home during construction of such home.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by this section with respect to a dwelling shall not exceed $2,000.

''(B) PRIOR CREDIT AMOUNTS ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $2,000 reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling for all prior taxable years.

''(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48(a)), and

''(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the new energy efficient home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations, as in effect on April 3, 2003), the manufactured home producer of such home.

''(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling appliance.

''(3) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term 'qualified new energy efficient home' means a dwelling—

''(A) located in the United States,

''(B) the construction of which is substantially completed after December 31, 2003,

''(C) the original use of which is as a principal residence (within the meaning of section 121) which commences with the person who acquires such dwelling from the eligible contractor, and

''(D) which is certified to have a level of annual heating and cooling energy consumption that is at least 30 percent below the annual level of heating and cooling energy consumption of a comparable dwelling constructed in accordance with the standards of the 2000 International Energy Conservation Code and to have building envelope component improvements account for ⅓ of such 30 percent.

''(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

''(5) ACQUIRE.—The term 'acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

''(6) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling when installed in or on such dwelling, exterior windows (including skylights) and doors, and metal roofs with appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of a dwelling when installed in or on such dwelling.

''(7) MANUFACTURED HOME INCLUDED.—The term 'dwelling' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations, as in effect on April 3, 2003).

''(d) CERTIFICATION.—

''(1) METHOD.—A certification described in subsection (c)(3)(D) shall be determined on the basis of one of the following methods:

''(A) The technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency for the energy efficient building envelope component or energy efficient heating or cooling appliance, based upon energy use or building envelope component performance.

''(B) An energy performance measurement method that utilizes computer software approved by organizations designated by the Secretary.

''(2) PROVIDER.—Such certification shall be provided by—

''(A) in the case of a method described in paragraph (1)(A), a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating systems provider who is accredited by, or otherwise authorized to use, approved energy performance measurement methods by the Home Energy Ratings Systems Council or the National Association of State Energy Officials, or

''(B) in the case of a method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—Such certification shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling appliances installed and their respective energy efficiency levels, and in the case of a method described in subparagraph (B) of paragraph (1), accompanied by written analysis documenting the proper application of a permissible energy performance measurement method to the specific circumstances of such dwelling.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for energy performance measurement methods, the Secretary shall prescribe procedures for calculating annual energy costs for heating and cooling and cost savings and for the reporting of the results. Such regulations shall—

''(i) be based on the National Home Energy Rating Technical Guidelines of the National Association of State Energy Officials, the Home Energy Rating Guidelines of the Home Energy Rating Systems Council, or the modified 2001 California Residential ACM manual,

''(ii) provide that any calculation procedures be developed such that the same energy efficiency measures allow a home to qualify for the credit under this section regardless of whether the house uses a gas or oil furnace or boiler or an electric heat pump, and

''(iii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and explanations for the homebuyer of the energy efficient features that were used to comply with the requirements of this section.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the National Association of State Energy Officials.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

''(f) APPLICATION OF SECTION.—Subsection (a) shall apply to dwellings purchased during the period beginning on January 1, 2004, and ending on December 31, 2006.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end thereof the following new paragraph:

''(16) the new energy efficient home credit determined under section 45G.''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end thereof the following new subsection:

''(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a new energy efficient home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G.''.

(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending before January 1, 2004.''.

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding after paragraph (10) the following new paragraph:

''(11) the new energy efficient home credit determined under section 45G.''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45F the following new item:

''Sec. 45G. New energy efficient home credit.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2003.

**SEC. 41006. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.**

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (ii), by adding ''or'' at the end of clause (iii), and by inserting after clause (iii) the following new clause:

''(iv) combined heat and power system property,''.

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

''(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

''(iii) which produces—

''(I) at least 20 percent of its total useful energy in the form of thermal energy, and

''(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and ''(v) which is placed in service after December 31, 2003, and before January 1, 2007.

''(B) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

''(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and

''(II) the denominator of which is the lower heating value of the primary fuel source for the system.

''(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

''(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(iv) PUBLIC UTILITY PROPERTY.—

''(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(1)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter in paragraph (3) which follows subparagraph (D) shall not apply to combined heat and power system property.

''(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed credit under this section for combined heat and power system property and such property would (but for this subparagraph) have a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.''.

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending before January 1, 2004.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

**SEC. 41007. NEW NONREFUNDABLE PERSONAL CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.**

(a) IN GENERAL.—

(1) SECTION 25C.—Section 25C(b), as added by section 41001, is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and section 25D and 25E) and section 27 for the taxable year.''.

(2) SECTION 25D.—Section 25D(b), as added by section 103, is amended to read as follows:

''(b) LIMITATIONS.—

''(1) IN GENERAL.—The credit allowed under subsection (a) with respect to any qualified fuel cell power plant for any taxable year shall not exceed—

''(A) $500 for each ½ kilowatt of capacity of the power plant, reduced by

''(B) the aggregate energy credits allowed with respect to such power plant for all prior taxable years.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and section 25E) and section 27 for the taxable year.''.

(3) SECTION 25E.—Section 25E(b), as added by section 41004, is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 23(b)(4)(B) is amended by inserting ''and sections 25C, 25D, and 25E'' after ''this section''.

(2) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, 25C, 25D, and 25E''.

(3) Section 25(e)(1)(C) is amended by inserting ''25C, 25D, and 25E'' after ''25B,''.

(4) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23, 25C, 25D, and 25E''.

(5) Section 25E(c), as added by section 41004, is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)'' and inserting ''subsection (b)(3)''.

(6) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, 25C, 25D, and 25E''.

(7) Section 904(h) is amended by striking ''and 25B'' and inserting ''25B, 25C, 25D, and 25E''.

(8) Section 1400C(d) is amended by striking ''and 25B'' and inserting ''25B, 25C, 25D, and 25E''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 41008. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS AND INLAND WATERWAY TRANSPORTATION WHICH REMAIN IN GENERAL FUND.**

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking ''or a diesel-powered train'' each place it appears and by striking ''or train''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows ''section 6421(e)(2)'' and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.''

(D) Subsection (f) of section 4082 is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (d)(3) and (a)(1) of section 4041, respectively''.

(E) Paragraph (3) of section 4083(a) is amended by striking ''or a diesel-powered train''.

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

''(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.''

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

''(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.''

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

**SEC. 41009. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN MIXTURES OF DIESEL FUEL.**

(a) IN GENERAL.—Paragraph (2) of section 4081(a) is amended by adding at the end the following:

''(C) DIESEL-WATER FUEL EMULSION.—In the case of diesel-water fuel emulsion at least 14 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(iii) shall be applied by substituting '19.7 cents' for '24.3 cents'.''.

(b) SPECIAL RULES FOR DIESEL-WATER FUEL EMULSIONS.—

(1) REFUNDS FOR TAX-PAID PURCHASES.—Section 6427 is amended by redesignating subsections (m) through (p) as subsections (n) through (q), respectively, and by inserting after subsection (l) the following new subsection:

''(m) DIESEL FUEL USED TO PRODUCE EMULSION.—

''(1) IN GENERAL.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(C) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

''(2) DEFINITIONS.—For purposes of paragraph (1)—

''(A) REGULAR TAX RATE.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(C).

''(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(C).''.

(2) LATER SEPARATION OF FUEL.—

(A) IN GENERAL.—Section 4081 (relating to imposition of tax) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

''(d) LATER SEPARATION OF FUEL FROM DIESEL-WATER FUEL EMULSION.—If any person separates the taxable fuel from a diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(C) (or with respect to which a credit or payment was allowed or made by reason of section 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.''.

(B) CONFORMING AMENDMENT.—Subsection (d) of section 6416 is amended by striking ''section 4081(e)'' and inserting ''section 4081(f)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2003.

**SEC. 41010. REPEAL OF PHASEOUTS FOR QUALIFIED ELECTRIC VEHICLE CREDIT AND DEDUCTION FOR CLEAN FUEL-VEHICLES.**

(a) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Subsection (b) of section 30 (relating to limitations) is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—Paragraph (1) of section 179A(b) (relating to qualified clean-fuel vehicle property) is amended to read as follows:

''(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.— The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

''(A) in the case of a motor vehicle not described in subparagraph (B) or (C), $2,000,

''(B) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

''(C) $50,000 in the case of—

''(i) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

''(ii) any bus which has a seating capacity of at least 20 adults (not including the driver).''.

**SEC. 41011. ALTERNATIVE MOTOR VEHICLE CREDIT.**

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following:

**''SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b), and

''(2) the advanced lean burn technology motor vehicle credit determined under subsection (c).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

''(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy,

''(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2000 model year city fuel economy,

''(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2000 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2000 model year city fuel economy.

''(B) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

| ''If vehicle inertia weight class is: | The 2000 model year city fuel economy is: |
|---|---|
| 1,500 or 1,750 lbs | 43.7 mpg |
| 2,000 lbs | 38.3 mpg |
| 2,250 lbs | 34.1 mpg |
| 2,500 lbs | 30.7 mpg |
| 2,750 lbs | 27.9 mpg |
| 3,000 lbs | 25.6 mpg |
| 3,500 lbs | 22.0 mpg |
| 4,000 lbs | 19.3 mpg |
| 4,500 lbs | 17.2 mpg |
| 5,000 lbs | 15.5 mpg |
| 5,500 lbs | 14.1 mpg |
| 6,000 lbs | 12.9 mpg |
| 6,500 lbs | 11.9 mpg |
| 7,000 or 8,500 lbs | 11.1 mpg. |

''(ii) In the case of a light truck:

| ''If vehicle inertia weight class is: | The 2000 model year city fuel economy is: |
|---|---|
| 1,500 or 1,750 lbs | 37.6 mpg |
| 2,000 lbs | 33.7 mpg |
| 2,250 lbs | 30.6 mpg |
| 2,500 lbs | 28.0 mpg |
| 2,750 lbs | 25.9 mpg |
| 3,000 lbs | 24.1 mpg |
| 3,500 lbs | 21.3 mpg |
| 4,000 lbs | 19.0 mpg |
| 4,500 lbs | 17.3 mpg |
| 5,000 lbs | 15.8 mpg |
| 5,500 lbs | 14.6 mpg |
| 6,000 lbs | 13.6 mpg |
| 6,500 lbs | 12.8 mpg |
| 7,000 or 8,500 lbs | 12.0 mpg. |

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2004 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) INCREASE FOR FUEL EFFICIENCY.—The credit amount determined under this paragraph shall be—

''(i) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,

''(ii) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

''(iii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

''(iv) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

''(v) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and ''(vi) $3,000, if such vehicle achieves at least 250 percent of the 2000 model year city fuel economy.

For purposes of clause (i), the 2000 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

''(B) CONSERVATION CREDIT.—The amount determined under subparagraph (A) with respect to an advanced lean burn technology motor vehicle shall be increased by—

''(i) $250, if such vehicle achieves a lifetime fuel savings of at least 1,500 gallons of gasoline, and

''(ii) $500, if such vehicle achieves a lifetime fuel savings of at least 2,500 gallons of gasoline.

''(C) OPTION TO USE LIKE VEHICLE.—At the option of the vehicle manufacturer, the increase for fuel efficiency and conservation credit may be calculated by comparing the new advanced lean-burn technology motor vehicle to a like vehicle.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—The term 'advanced lean burn technology motor vehicle' means a motor vehicle with an internal combustion engine that—

''(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

''(ii) incorporates direct injection,

''(iii) achieves at least 125 percent of the 2000 model year city fuel economy, and

''(iv) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 8 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle.

''(B) LIKE VEHICLE.—The term 'like vehicle' for an advanced lean burn technology motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

''(i) Body style (2-door or 4-door).

''(ii) Transmission (automatic or manual).

''(iii) Acceleration performance (± 0.05 seconds).

''(iv) Drivetrain (2-wheel drive or 4-wheel drive).

''(v) Certification by the Administrator of the Environmental Protection Agency.

''(C) LIFETIME FUEL SAVINGS.—The term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2000 model year city fuel economy for the vehicle inertia weight class and the city fuel economy for the new qualified hybrid motor vehicle.

''(d) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and sections 27, 29, and 30A for the taxable year.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(3) 2000 MODEL YEAR CITY FUEL ECONOMY.—The 2000 model year city fuel economy with respect to any vehicle shall be measured under rules similar to the rules under section 4064(c).

''(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(5) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(6) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter (other than the credit allowable under this section), with respect to a vehicle described under subsection (b), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any sale or lease document the specific amount of any credit otherwise allowable to the entity under this section.

''(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(11) CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year (referred to as the 'unused credit year' in this paragraph), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under subparagraph (A).

''(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(f) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) DETERMINATION OF MOTOR VEHICLE ELIGIBILITY.—The Secretary, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(g) TERMINATION.—This section shall not apply to any property placed in service after—

''(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2012, and

''(2) in the case of any other property, December 31, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following:

''(32) to the extent provided in section 30B(e)(5).''.

(2) Section 6501(m) is amended by inserting ''30B(e)(10),'' after ''30(d)(4),''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following:

''Sec. 30B. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

## TITLE II—RELIABILITY

### SEC. 42001. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 is amended by adding after paragraph (15) the following new paragraph:

''(16) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

''(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(i) the following:

''(C)(ii) .............................................. 10''.

(d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: '', or in section 168(e)(3)(C)(ii)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 42002. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.**

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting '', and'', and by adding at the end the following new clause:

''(iv) any natural gas distribution line.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iii) the following:

''(E)(iv) .......................................... 20''.

(c) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: '', or in section 168(e)(3)(E)(iv)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 42003. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.**

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and by inserting '', and'', and by adding at the end the following new clause:

''(v) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iv) the following:

''(E)(v) .......................................... 20''.

(c) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: '', or in section 168(e)(3)(E)(v)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 42004. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179A the following new section:

**''SEC. 179B. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.**

''(a) TREATMENT AS EXPENSES.—A small business refiner (as defined in section 45H(c)(1)) may elect to treat 75 percent of qualified capital costs (as defined in section 45H(c)(2)) which are paid or incurred by the taxpayer during the taxable year as expenses which are not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which paid or incurred.

''(b) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily domestic refinery runs for the 1-year period ending on March 31, 2003, in excess of 155,000 barrels, the number of percentage points described in subsection (a) shall be reduced (not below zero) by the product of such number (before the application of this subsection) and the ratio of such excess to 50,000 barrels.

''(c) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ''; or'', and by adding at the end the following new subparagraph:

''(I) expenditures for which a deduction is allowed under section 179B.''.

(2) Section 312(k)(3)(B) is amended—

(A) by striking ''section 179 or 179A'' each place it appears and inserting ''section 179, 179A, or 179B'', and

(B) in the heading, by striking ''179 OR 179A'' and inserting ''179, 179A, OR 179B''.

(3) Section 1016(a) is amended by striking ''and'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting '', and'', and by adding at the end the following new paragraph:

''(33) to the extent provided in section 179B(c).''

(4) Paragraphs (2)(C) and (3)(C) of section 1245(a) are each amended by inserting ''179B,'' after ''179A,''.

(5) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179A the following new item:

''Sec. 179B. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after March 31, 2003, in taxable years ending after such date.

**SEC. 42005. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

**''SEC. 45H. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.**

''(a) IN GENERAL.—For purposes of section 38, the amount of the low sulfur diesel fuel production credit determined under this section with respect to any facility of a small business refiner is an amount equal to 5 cents for each gallon of low sulfur diesel fuel produced during the taxable year by such small business refiner at such facility.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—The aggregate credit determined under subsection (a) for any taxable year with respect to any facility shall not exceed—

''(A) 25 percent of the qualified capital costs incurred by the small business refiner with respect to such facility, reduced by

''(B) the aggregate credits determined under this section for all prior taxable years with respect to such facility.

''(2) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily domestic refinery runs for the 1-year period ending on March 31, 2003, in excess of 155,000 barrels, the number of percentage points described in paragraph (1) shall be reduced (not below zero) by the product of such number (before the application of this paragraph) and the ratio of such excess to 50,000 barrels.

''(c) DEFINITIONS.—For purposes of this section—

''(1) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil with respect to which not more than 1,500 persons are engaged in the refinery operations of the business on any day during such taxable year and whose average daily domestic refinery run for the 1-year period ending on March 31, 2003, did not exceed 205,000 barrels.

''(2) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means, with respect to any facility, those costs paid or incurred during the applicable period for compliance with the applicable EPA regulations with respect to such facility, including expenditures for the construction of new process operation units or the dismantling and reconstruction of existing process units to be used in the production of low sulfur diesel fuel, associated adjacent or offsite equipment (including tankage, catalyst, and power supply), engineering, construction period interest, and sitework.

''(3) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency.

''(4) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on April 1, 2003, and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

''(5) LOW SULFUR DIESEL FUEL.—The term 'low sulfur diesel fuel' means diesel fuel with a sulfur content of 15 parts per million or less.

''(d) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

''(e) CERTIFICATION.—

''(1) REQUIRED.—Not later than the date which is 30 months after the first day of the first taxable year in which the low sulfur diesel fuel production credit is allowed with respect to a facility, the small business refiner must obtain certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

''(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

''(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application.

''(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—

''(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends, and

''(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(f) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 taxpayer.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) in the case of a small business refiner, the low sulfur diesel fuel production credit determined under section 45H(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding after subsection (d) the following new subsection:

''(e) LOW SULFUR DIESEL FUEL PRODUCTION CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45H(a).''.

(d) BASIS ADJUSTMENT.—Section 1016(a) (relating to adjustments to basis) is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting '', and'', and by adding at the end the following new paragraph:

''(34) in the case of a facility with respect to which a credit was allowed under section 45H, to the extent provided in section 45H(d).''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45H. Credit for production of low sulfur diesel fuel.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after March 31, 2003, in taxable years ending after such date.

**SEC. 42006. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.**

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to certain refiners excluded) is amended to read as follows:

''(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or a related person engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and the related person for the taxable year exceed 75,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 42007. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.**

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—In the case of any qualifying electric transmission transaction to which the taxpayer elects the application of this section, qualified gain from such transaction shall be recognized—

''(A) in the taxable year which includes the date of such transaction to the extent the amount realized from such transaction exceeds—

''(i) the cost of exempt utility property which is purchased by the taxpayer during the 4-year period beginning on such date, reduced (but not below zero) by

''(ii) any portion of such cost previously taken into account under this subsection, and

''(B) ratably over the 8-taxable year period beginning with the taxable year which includes the date of such transaction, in the case of any such gain not recognized under subparagraph (A).

''(2) QUALIFIED GAIN.—For purposes of this subsection, the term 'qualified gain' means, with respect to any qualifying electric transmission transaction in any taxable year—

''(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

''(B) any income derived from such transaction in excess of the amount described in subparagraph (A) which is required to be included in gross income for such taxable year (determined without regard to this subsection).

''(3) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

''(A) property used in the trade or business of providing electric transmission services, or

''(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

''(4) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) an independent transmission provider approved by the Federal Energy Regulatory Commission,

''(B) a person—

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) or by declaratory order is not a market participant within the meaning of such Commission's rules applicable to independent transmission providers, and

''(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved independent transmission provider before the close of the period specified in such authorization, but not later than the close of the period applicable under subsection (a)(2)(B) as extended under paragraph (2), or

''(C) in the case of facilities subject to the jurisdiction of the Public Utility Commission of Texas—

''(i) a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission provider, or

''(ii) a political subdivision or affiliate thereof whose transmission facilities are under the operational control of a person described in clause (i).

''(5) EXEMPT UTILITY PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'exempt utility property' means property used in the trade or business of—

''(i) generating, transmitting, distributing, or selling electricity, or

''(ii) producing, transmitting, distributing, or selling natural gas.

''(B) NONRECOGNITION OF GAIN BY REASON OF ACQUISITION OF STOCK.—Acquisition of control of a corporation shall be taken into account under this subsection with respect to a qualifying electric transmission transaction only if the principal trade or business of such corporation is a trade or business referred to in subparagraph (A).

''(6) SPECIAL RULE FOR CONSOLIDATED GROUPS.—In the case of a corporation which is a member of an affiliated group filing a consolidated return, any exempt utility property purchased by another member of such group shall be treated as purchased by such corporation for purposes of applying paragraph (1)(A).

''(7) TIME FOR ASSESSMENT OF DEFICIENCIES.—If the taxpayer has made the election under paragraph (1) and any gain is recognized by such taxpayer as provided in paragraph (1)(B), then—

''(A) the statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain on the transaction is realized, attributable to such gain shall not expire prior to the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of the purchase of exempt utility property or of an intention not to purchase such property, and

''(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding any law or rule of law which would otherwise prevent such assessment.

''(8) PURCHASE.—For purposes of this subsection, the taxpayer shall be considered to have purchased any property if the unadjusted basis of such property is its cost within the meaning of section 1012.

''(9) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may require and, once made, shall be irrevocable.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 42008. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.**

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A is amended to read as follows:

''(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

''(1) IN GENERAL.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.

''(2) CONTRIBUTIONS AFTER FUNDING PERIOD.—Notwithstanding any other provision of this section, a taxpayer may pay into the Fund in any taxable year after the last taxable year to which the ruling amount applies. Payments may not be made under the preceding sentence to the extent such payments would cause the assets of the Fund to exceed the nuclear decommissioning costs allocable to the taxpayer's current or former interest in the nuclear power plant to which the Fund relates. The limitation under the preceding sentence shall be determined by taking into account a reasonable rate of inflation for the nuclear decommissioning costs and a reasonable after-tax rate of return on the assets of the Fund until such assets are anticipated to be expended.''.

(b) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.—Subsection (e) of section 468A is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

''(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

''(B) no amount shall be treated as distributed from such Fund, or be includible in gross income, by reason of such transfer.''.

(c) TREATMENT OF CERTAIN DECOMMISSIONING COSTS.—

(1) IN GENERAL.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

''(f) TRANSFERS INTO QUALIFIED FUNDS.—

''(1) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund up to an amount equal to the excess of the total nuclear decommissioning costs with respect to such nuclear power plant over the portion of such costs taken into account in determining the ruling amount in effect immediately before the transfer.

''(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

''(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed or a corresponding amount was not included in gross income. For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

''(C) TRANSFERS OF QUALIFIED FUNDS.—If—

''(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

''(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferor for the taxable year which includes such date.

''(D) SPECIAL RULES.—

''(i) GAIN OR LOSS NOT RECOGNIZED.—No gain or loss shall be recognized on any transfer permitted by this subsection.

''(ii) TRANSFERS OF APPRECIATED PROPERTY.—If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction shall be the adjusted basis of such property.

''(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

''(4) NO BASIS IN QUALIFIED FUNDS.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.''.

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) is amended to read as follows:

''(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 42009. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.**

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking ''or'' at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

''(ii) from any provision or sale of transmission service or ancillary services if such services are provided on a nondiscriminatory open access basis under an independent transmission provider agreement approved by FERC (other than income received or accrued directly or indirectly from a member),

''(iii) from any nuclear decommissioning transaction, or

''(iv) from any asset exchange or conversion transaction.''.

(2) DEFINITIONS AND SPECIAL RULES.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraphs:

''(E) For purposes of subparagraph (C)(ii), the term 'FERC' means the Federal Energy Regulatory Commission and references to such term shall be treated as including the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))).

''(F) For purposes of subparagraph (C)(iii), the term 'nuclear decommissioning transaction' means—

''(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

''(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

''(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

''(G) For purposes of subparagraph (C)(iv), the term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

''(i) generating, transmitting, distributing, or selling electric energy, or

''(ii) producing, transmitting, distributing, or selling natural gas.''.

(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS, ETC.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

''(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

''(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

''(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

''(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

''(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

''(II) the megawatt hours of electric energy sold during the base year to such members.

''(v) For purposes of clause (iv)(II), the term 'base year' means—

''(I) the calendar year preceding the start-up year, or

''(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

''(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

''(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

''(I) the first year that such electric company offers nondiscriminatory open access, or

''(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

''(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

''(ix) For purposes of subparagraph (A), in the case of a mutual or cooperative electric company, income received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.''.

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

''(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.''.

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

''(c) CROSS REFERENCE.—

**"For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).".**

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 42010. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.**

(a) IN GENERAL.—Subsection (b) of section 148 (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

''(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

''(A) IN GENERAL.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

''(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

''(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

''(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

''(C) NATURAL GAS USED TO GENERATE ELECTRICITY.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

''(i) only if the electricity is generated by a utility owned by a governmental unit, and

''(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

''(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

''(i) NEW BUSINESS CUSTOMERS.—If—

''(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for a business use at a property within the service area of such utility, and

''(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

''(ii) LOST CUSTOMERS.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

''(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

''(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

''(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

''(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

''(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

''(ii) APPLICABLE SHARE.—For purposes of the clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

''(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

''(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

''(ii) the amount of natural gas used to transport such natural gas to the utility.

''(H) TESTING PERIOD.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

''(I) SERVICE AREA.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

''(i) any area throughout which such utility provided at all times during the testing period—

''(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

''(II) in the case of an electric utility, electricity distribution services,

''(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

''(iii) any area recognized as the service area of such utility under State or Federal law.''.

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of section 141(c) (providing exceptions to the private loan financing test) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following new subparagraph:

''(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 42011. PREPAYMENT OF PREMIUM LIABILITY FOR COAL INDUSTRY HEALTH BENEFITS.**

(a) IN GENERAL.—Section 9704 (relating to liability of assigned operators) is amended by adding at the end the following new subsection:

''(j) PREPAYMENT OF PREMIUM LIABILITY.—

''(1) IN GENERAL.—If—

''(A) any assigned operator who is a member of a controlled group of corporations (within the meaning of section 52(a)) makes a payment meeting the requirements of paragraph (2) to the Combined Fund, and

''(B) the common parent of such group—

''(i) is jointly and severally liable for any premium which would (but for this subsection) be required to be paid by such operator, and

''(ii) provides security which meets the requirements of paragraph (3),

then no person (other than such common parent) shall be liable for any premium for which such operator would otherwise be liable.

''(2) REQUIREMENTS.—A payment meets the requirements of this paragraph if—

''(A) the amount of the payment is not less than the present value of the total premium liability of the assigned operator for its assignees under this chapter with respect to the Combined Fund (as determined by the operator's enrolled actuary, as defined in section 7701(a)(35)), using actuarial methods and assumptions each of which is reasonable and which are reasonable in the aggregate, as determined by such enrolled actuary,

''(B) a signed actuarial report is filed with the Secretary of Labor by such enrolled actuary containing—

''(i) the date of the actuarial valuation applicable to the report, and

''(ii) a statement by the enrolled actuary signing the report that to the best of the actuary's knowledge the report is complete and accurate and that in the actuary's opinion the actuarial assumptions used are in the aggregate reasonably related to the experience of the operator and to reasonable expectations,

''(C) a description of the security described in paragraph (3) is filed with the Secretary of Labor by the common parent, and

''(D) 30 calendar days have elapsed after the report required by subparagraph (B), and the description required by subparagraph (C), are filed with the Secretary of Labor, and the Secretary of Labor has not notified the assigned operator in writing that the requirements of this paragraph have not been satisfied.

''(3) SECURITY.—Security meets the requirements of this paragraph if—

''(A) the security (in the form of a bond, letter of credit, or cash escrow) is provided to the trustees of the 1992 UMWA Benefit Plan, solely for the purpose of paying premiums for beneficiaries described in section 9712(b)(2)(B), equal in amount to one year's liability of the assigned operator under section 9711, determined by using the average cost of such operator's liability during its prior 3 calendar years; and

''(B) the security will remain in place for 5 years.

''(4) USE OF PREPAYMENT.—Any payment to which this subsection applies (and earnings thereon) shall be used exclusively to pay premiums which would (but for this subsection) be required to be paid by the assigned operator making such payment.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

## TITLE III—PRODUCTION

**SEC. 43001. OIL AND GAS FROM MARGINAL WELLS.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits) is amended by adding at the end the following:

**''SEC. 45I. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.**

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2002' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a qualified marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated or qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following:

''(18) the marginal oil and gas well production credit determined under section 45I(a).''.

(c) CARRYBACK.—Subsection (a) of section 39 (relating to carryback and carryforward of unused credits generally) is amended by adding at the end the following:

''(3) 10-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—In the case of the marginal oil and gas well production credit—

''(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

''(B) paragraph (1) shall be applied by substituting '10 taxable years' for '1 taxable years' in subparagraph (A) thereof, and

''(C) paragraph (2) shall be applied—

''(i) by substituting '31 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(ii) by substituting '30 taxable years' for '20 taxable years' in subparagraph (A) thereof.''.

(d) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45I. Credit for producing oil and gas from marginal wells.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2003.

**SEC. 43002. TEMPORARY SUSPENSION OF LIMITATION BASED ON 65 PERCENT OF TAXABLE INCOME AND EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL PRODUCTION.**

(a) LIMITATION BASED ON 65 PERCENT OF TAXABLE INCOME.—Subsection (d) of section 613A (relating to limitation on percentage depletion in case of oil and gas wells) is amended by adding at the end the following new paragraph:

''(6) TEMPORARY SUSPENSION OF TAXABLE INCOME LIMIT.—Paragraph (1) shall not apply to taxable years beginning after December 31, 2003, and before January 1, 2007, including with respect to amounts carried under the second sentence of paragraph (1) to such taxable years.''.

(b) EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL PRODUCTION.—Subparagraph (H) of section 613A(c)(6) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking ''2004'' and inserting ''2007''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

**SEC. 43003. AMORTIZATION OF DELAY RENTAL PAYMENTS.**

(a) IN GENERAL.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

''(2) HALF-YEAR CONVENTION.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

''(3) EXCLUSIVE METHOD.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

''(4) TREATMENT UPON ABANDONMENT.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

''(5) DELAY RENTAL PAYMENTS.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2003.

**SEC. 43004. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.**

(a) IN GENERAL.—Section 167 (relating to depreciation) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

''(1) IN GENERAL.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

''(2) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2003.

**SEC. 43005. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) IN GENERAL.—Section 29 is amended by adding at the end the following new subsection:

''(h) EXTENSION FOR OTHER FACILITIES.—

''(1) EXTENSION FOR OIL AND CERTAIN GAS.—In the case of a well for producing qualified fuels described in subparagraph (A) or (B)(i) of subsection (c)(1)—

''(A) APPLICATION OF CREDIT FOR NEW WELLS.—Notwithstanding subsection (f), this section shall apply with respect to such fuels—

''(i) which are produced from a well drilled after the date of the enactment of this subsection and before January 1, 2007, and

''(ii) which are sold not later than the close of the 4-year period beginning on the date that such well is drilled, or, if earlier, January 1, 2010.

''(B) EXTENSION OF CREDIT FOR OLD WELLS.—Subsection (f)(2) shall be applied by substituting '2007' for '2003' with respect to wells described in subsection (f)(1)(A) with respect to such fuels.

''(2) EXTENSION FOR FACILITIES PRODUCING QUALIFIED FUEL FROM LANDFILL GAS.—

''(A) IN GENERAL.—In the case of a facility for producing qualified fuel from landfill gas which was placed in service after June 30, 1998, and before January 1, 2007, this section shall apply to fuel produced at such facility during the 5-year period beginning on the later of—

''(i) the date such facility was placed in service, or

''(ii) the date of the enactment of this subsection.

''(B) REDUCTION OF CREDIT FOR CERTAIN LANDFILL FACILITIES.—In the case of a facility to which paragraph (1) applies and which is located at a landfill which is required pursuant to section 60.751(b)(2) or section 60.33c of title 40, Code of Federal Regulations (as in effect on April 3, 2003) to install and operate a collection and control system which captures gas generated within the landfill, subsection (a)(1) shall be applied to gas so captured by substituting '$2' for '$3' for the taxable year during which such system is required to be installed and operated.

''(3) SPECIAL RULES.—In determining the amount of credit allowable under this section solely by reason of this subsection—

''(A) DAILY LIMIT.—The amount of qualified fuels sold during any taxable year which may be taken into account by reason of this subsection with respect to any project shall not exceed an average barrel-of-oil equivalent of 200,000 cubic feet of natural gas per day. Days before the date the project is placed in service shall not be taken into account in determining such average.

''(B) EXTENSION PERIOD TO COMMENCE WITH UNADJUSTED CREDIT AMOUNT.—In the case of fuels sold during 2003, the dollar amount applicable under subsection (a)(1) shall be $3 (without regard to subsection (b)(2)). In the case of fuels sold after 2003, subparagraph (B) of subsection (d)(2) shall be applied by substituting '2003' for '1979'.''.

(b) TREATMENT AS BUSINESS CREDIT.—

(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 29 as section 45J and by moving section 45J (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following:

''(19) the nonconventional source production credit determined under section 45J(a).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 30(b)(2)(A), as redesignated by section 110(a), is amended by striking ''sections 27 and 29'' and inserting ''section 27''.

(B) Section 30B(d), as added by section 41011, is amended by striking '', 29,''.

(C) Section 39(d) is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK FOR NONCONVENTIONAL SOURCE PRODUCTION CREDIT.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45J may be carried back to a taxable year ending before April 1, 2003.''.

(D) Sections 43(b)(2), 45I(b)(2)(C) (as added by section 43001), and 613A(c)(6)(C) are each amended by striking ''section 29(d)(2)(C)'' and inserting ''section 45J(d)(2)(C)''.

(E) Paragraph (9) of section 45(c), as added by section 41002(c), is amended by striking ''section 29'' and inserting ''section 45J'' and by striking ''SECTION 29'' in the heading of such paragraph and inserting ''SECTION 45J''.

(F) Section 45I(d)(3), as added by section 43001, is amended by striking ''section 29'' each place it appears and inserting ''section 45J''.

(G) Section 45J(a), as amended by section 43001(d) and redesignated by paragraph (1), is amended by striking ''At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year'' and inserting ''For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is''.

(H) Section 45J(b), as so redesignated, is amended by striking paragraph (6).

(I) Section 53(d)(1)(B)(iii) is amended by striking ''under section 29'' and all that follows through ''or not allowed''.

(J) Section 55(c)(2) is amended by striking ''29(b)(6),''.

(K) Subsection (a) of section 772 is amended by inserting ''and'' at the end of paragraph (9), by striking paragraph (10), and by redesignating paragraph (11) as paragraph (10).

(L) Paragraph (5) of section 772(d) is amended by striking ''the foreign tax credit, and the credit allowable under section 29'' and inserting ''and the foreign tax credit''.

(M) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(N) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45I the following new item:

''Sec. 45J. Credit for producing fuel from a nonconventional source.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to fuel sold after March 31, 2003, in taxable years ending after such date.

(2) TREATMENT AS BUSINESS CREDIT.—The amendments made by subsection (b) shall apply to taxable years ending after March 31, 2003.

**SEC. 43006. BUSINESS RELATED ENERGY CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAX.**

(a) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR SPECIFIED ENERGY CREDITS.—

''(A) IN GENERAL.—In the case of specified energy credits—

''(i) this section and section 39 shall be applied separately with respect to such credits, and

''(ii) in applying paragraph (1) to such credits—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the specified energy credits).

''(B) SPECIFIED ENERGY CREDITS.—For purposes of this subsection, the term 'specified energy credits' means the credits determined under sections 45G, 45H, and 45I.

''(C) SPECIAL RULE FOR QUALIFIED WIND FACILITIES.—For purposes of this subsection, the term 'specified energy credits' shall include the credit determined under section 45 to the extent that such credit is attributable to electricity produced—

''(i) at a facility using wind to produce electricity which is originally placed in service after the date of the enactment of this paragraph, and

''(ii) during the 4-year period beginning on the date that such facility was originally placed in service.''.

(b) CONFORMING AMENDMENTS.—Paragraphs (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) are each amended by inserting ''or the specified energy credits'' after ''employee credit''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

**SEC. 43007. TEMPORARY REPEAL OF ALTERNATIVE MINIMUM TAX PREFERENCE FOR INTANGIBLE DRILLING COSTS.**

(a) IN GENERAL.—Clause (ii) of section 57(a)(2)(E) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to taxable years beginning after December 31, 2003, and before January 1, 2006.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 43008. ALLOWANCE OF ENHANCED RECOVERY CREDIT AGAINST THE ALTERNATIVE MINIMUM TAX.**

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(4), as amended by section 43006, is amended by adding at the end the following new sentence: ''For taxable years beginning after December 31, 2003, and before January 1, 2006, such term includes the credit determined under section 43.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

## TITLE IV—CORPORATE EXPATRIATION

**SEC. 44001. TAX TREATMENT OF CORPORATE EXPATRIATION.**

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

**''SEC. 7874. TAX TREATMENT OF CORPORATE EXPATRIATION.**

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 4, 2003, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

''(3) TERMINATION.—This subsection shall not apply to any acquisition completed after December 31, 2004.

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a) would be, treated as a foreign corporation for purposes of this title.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to paragraphs (2), (3), and (4) of section 1504(b), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership under subsection (a)(3)(B)—

''(A) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(B) stock of such foreign incorporated entity which is sold in a public offering related to the acquisition described in subsection (a)(3)(A).

''(4) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(3)(B) are met, such actions shall be treated as pursuant to a plan.

''(5) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(6) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(3)(B) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to determine whether a corporation is an inverted domestic corporation, including regulations—

''(A) to treat warrants, options, contracts to acquire stock, convertible debt interests, and other similar interests as stock, and

''(B) to treat stock as not stock.

''(c) SPECIAL RULE FOR TREATIES.—Nothing in section 894 or 7852(d) or in any other provision of law shall be construed as permitting an exemption, by reason of any treaty obligation of the United States heretofore or hereafter entered into, from the provisions of this section.

''(d) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Tax treatment of corporate expatriation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 4, 2003.

**SEC. 44002. EXPRESSING THE SENSE OF THE CONGRESS THAT TAX REFORM IS NEEDED TO ADDRESS THE ISSUE OF CORPORATE EXPATRIATION.**

(a) FINDINGS.—The Congress finds that—

(1) the tax laws of the United States are overly complex;

(2) the tax laws of the United States are among the most burdensome and uncompetitive in the world;

(3) the tax laws of the United States make it difficult for domestically-owned United States companies to compete abroad and in the United States;

(4) a domestically-owned corporation is disadvantaged compared to a United States subsidiary of a foreign-owned corporation; and

(5) international competitiveness is forcing many United States corporations to make a choice they do not want to make–go out of business, sell the business to a foreign competitor, or become a subsidiary of a foreign corporation (i.e., engage in an inversion transaction).

(b) SENSE OF CONGRESS.—It is the sense of Congress that passage of legislation to fix the underlying problems with our tax laws is essential and should occur as soon as possible, so United States corporations will not face the current pressures to engage in inversion transactions.

## DIVISION E—CLEAN COAL

**SEC. 50001. AUTHORIZATION OF APPROPRIATIONS.**

(a) CLEAN COAL POWER INITIATIVE.—Except as provided in subsection (b), there are authorized to be appropriated to the Secretary to carry out the activities authorized by this division $200,000,000 for each of the fiscal years 2004 through 2012, to remain available until expended.

(b) LIMIT ON USE OF FUNDS.—The Secretary shall transmit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, the report required by this subsection not later than March 31, 2005. Notwithstanding subsection (a), no funds may be used to carry out the activities authorized by this division after September 30, 2005, unless the report has been transmitted and one month has elapsed since that transmission. The report shall include, with respect to subsection (a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(c) APPLICABILITY.—Subsection (b) shall not apply to any project begun before September 30, 2005.

**SEC. 50002. PROJECT CRITERIA.**

(a) IN GENERAL.—The Secretary shall not provide funding under this division for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of the enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.—

(1) GASIFICATION.—(A) In allocating the funds made available under section 50001(a), the Secretary shall ensure that at least 60 percent of the funds are used only for projects on coal-based gasification technologies, including gasification combined cycle, gasification fuel cells, gasification co-production, and hybrid gasification/combustion.

(B) The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects must be designed to and reasonably expected to achieve. The technical milestones shall get more restrictive during the life of the program. The Secretary shall set the periodic milestones so as to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit no more than .05 lbs of NOx per million BTU;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of—

(I) 60 percent for coal of more than 9,000 Btu;

(II) 59 percent for coal of 7,000 to 9,000 Btu; and

(III) 50 percent for coal of less than 7,000 Btu.

(2) OTHER PROJECTS.—The Secretary shall periodically set technical milestones for projects not described in paragraph (1). The milestones shall specify the emission and thermal efficiency levels that projects funded under this paragraph must be designed to and reasonably expected to achieve. The technical milestones shall get more restrictive during the life of the program. The Secretary shall set the periodic milestones so as to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NOx per million BTU;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of—

(i) 45 percent for coal of more than 9,000 Btu;

(ii) 44 percent for coal of 7,000 to 9,000 Btu; and

(iii) 40 percent for coal of less than 7,000 Btu.

(3) CONSULTATION.—Before setting the technical milestones under paragraphs (1)(B) and (2), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers.

(4) EXISTING UNITS.—In the case of projects at existing units, in lieu of the thermal efficiency requirements set forth in paragraph (1)(B)(iv) and (2)(D), the milestones shall be designed to achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(5) PERMITTED USES.—In allocating funds made available under section 50001, the Secretary may fund projects that include, as part of the project, the separation and capture of carbon dioxide.

(c) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this division unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary for the Secretary

to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities, using different types of coal, that use coal as the primary feedstock as of the date of the enactment of this Act.

(e) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary under this division shall not exceed 50 percent.

(f) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act, achievable for purposes of section 169 of that Act, or achievable in practice for purposes of section 171 of that Act solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under this division.

**SEC. 50003. REPORT.**

Not later than 1 year after the date of the enactment of this Act, and once every 2 years thereafter through 2011, the Secretary, in consultation with other appropriate Federal agencies, shall transmit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, a report describing—

(1) the technical milestones set forth in section 50002 and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 50002; and

(2) the status of projects funded under this division.

**SEC. 50004. CLEAN COAL CENTERS OF EXCELLENCE.**

As part of the program authorized in section 50001, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that can show the greatest potential for advancing new clean coal technologies.

## DIVISION F—HYDROGEN

**SEC. 60001. DEFINITIONS.**

In this division:

(1) The term ''Advisory Committee'' means the Hydrogen Technical and Fuel Cell Advisory Committee established under section 60005 of this Act.

(2) The term ''Department'' means the Department of Energy.

(3) The term ''fuel cell'' means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by an electrochemical process taking place at separate electrodes in the device.

(4) The term ''infrastructure'' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen and other advanced clean fuels.

(5) The term ''light duty vehicle'' means a car or truck, classified by the Department of Transportation as a Class I or IIA vehicle.

(6) The term ''Secretary'' means the Secretary of Energy.

**SEC. 60002. PLAN.**

Not later than six months after the date of enactment of this Act, the Secretary shall transmit to the Congress a coordinated plan for the programs described in this division and any other programs of the Department that are directly related to fuel cells or hydrogen. The plan shall describe, at a minimum—

(1) the agenda for the next five years for the programs authorized under this division, including the agenda for each activity enumerated in section 60003(a);

(2) the types of entities that will carry out the activities under this division and what role each entity is expected to play;

(3) the milestones that will be used to evaluate the programs for the next five years;

(4) the most significant technical and nontechnical hurdles that stand in the way of achieving the goals described in section 60003(b), and how the programs will address those hurdles; and

(5) the policy assumptions that are implicit in the plan, including any assumptions that would affect the sources of hydrogen or the marketability of hydrogen-related products.

**SEC. 60003. PROGRAM.**

(a) ACTIVITIES.—The Secretary, in partnership with the private sector, shall conduct a program to address—

(1) production of hydrogen from diverse energy sources, including—

(A) fossil fuels, which may include carbon capture and sequestration;

(B) hydrogen-carrier fuels (including ethanol and methanol);

(C) renewable energy resources; and

(D) nuclear energy;

(2) the safe delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipeline and other distribution methods; and

(B) convenient and economic refueling of vehicles either at central refueling stations or through distributed on-site generation;

(3) advanced vehicle technologies, including—

(A) engine and emission control systems;

(B) energy storage, electric propulsion, and hybrid systems;

(C) automotive materials;

(D) clean fuels in addition to hydrogen; and

(E) other advanced vehicle technologies;

(4) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid, or solid form at refueling facilities and onboard vehicles;

(5) development of safe, durable, affordable, and efficient fuel cells, including research and development on fuel-flexible fuel cell power systems, improved manufacturing processes, high-temperature membranes, cost-effective fuel processing for natural gas, fuel cell stack and system reliability, low temperature operation, and cold start capability; and

(6) development of necessary codes and standards (including international codes and standards) and safety practices for the production, distribution, storage, and use of hydrogen, hydrogen-carrier fuels and related products.

(b) PROGRAM GOALS.—

(1) VEHICLES.—For vehicles, the goals of the program are—

(A) to enable a commitment by automakers no later than year 2015 to offer safe, affordable, and technically viable hydrogen fuel cell vehicles in the mass consumer market; and

(B) to enable production, delivery, and acceptance by consumers of model year 2020 hydrogen fuel cell and other vehicles that will have—

(i) a range of at least three hundred miles;

(ii) improved performance and ease of driving;

(iii) safety and performance comparable to vehicle technologies in the market;

(iv) when compared to light duty vehicles in model year 2003—

(I) a fuel economy that is two and one half times the equivalent fuel economy of comparable light duty vehicles in model year 2003; and

(II) near zero emissions of air pollutants; and

(v) vehicle fuel system crash integrity and occupant protection.

(2) HYDROGEN ENERGY AND ENERGY INFRASTRUCTURE.—For hydrogen energy and energy infrastructure, the goals of the program are to enable a commitment not later than 2015 that will lead to infrastructure by 2020 that will provide—

(A) safe and convenient refueling;

(B) improved overall efficiency;

(C) widespread availability of hydrogen from domestic energy sources through—

(i) production, with consideration of emissions levels;

(ii) delivery, including transmission by pipeline and other distribution methods for hydrogen; and

(iii) storage, including storage in surface transportation vehicles;

(D) hydrogen for fuel cells, internal combustion engines, and other energy conversion devices for portable, stationary, and transportation applications; and

(E) other technologies consistent with the Department's plan.

(3) FUEL CELLS.—The goals for fuel cells and their portable, stationary, and transportation applications are to enable—

(A) safe, economical, and environmentally sound hydrogen fuel cells;

(B) fuel cells for light duty and other vehicles; and

(C) other technologies consistent with the Department's plan.

(c) DEMONSTRATION.—In carrying out the program under this section, the Secretary shall fund a limited number of demonstration projects. In selecting projects under this subsection, the Secretary shall, to the extent practicable and in the public interest, select projects that—

(1) involve using hydrogen and related products at facilities or installations that would exist without the demonstration program, such as existing office buildings, military bases, vehicle fleet centers, transit bus authorities, or parks;

(2) depend on reliable power from hydrogen to carry out essential activities;

(3) lead to the replication of hydrogen technologies and draw such technologies into the marketplace;

(4) integrate in a single project both mobile and stationary applications of hydrogen fuel cells;

(5) address the interdependency of demand for hydrogen fuel cell applications and hydrogen fuel infrastructure; and

(6) raise awareness of hydrogen technology among the public.

(d) DEPLOYMENT.—In carrying out the program under this section, the Secretary shall, in partnership with the private sector, conduct activities to facilitate the deployment of—

(1) hydrogen energy and energy infrastructure;

(2) fuel cells;

(3) advanced vehicle technologies; and

(4) clean fuels in addition to hydrogen.

(e) FUNDING.—(1) The Secretary shall carry out the program under this section using a competitive, merit-review process and consistent with the generally applicable Federal laws and regulations governing awards of financial assistance, contracts, or other agreements.

(2) Activities under this section may be carried out by funding nationally recognized university-based research centers.

(3) The Secretary shall endeavor to avoid duplication or displacement of other research and development programs and activities.

(f) COST SHARING.—

(1) REQUIREMENT.—For projects carried out through grants, cooperative agreements, or contracts under this section, the Secretary shall require a commitment from non-Federal sources of at least—

(A) 20 percent of the cost of a project, except projects carried out under subsections (c) and (d); and

(B) 50 percent of the cost of a project carried out under subsection (c) or (d).

(2) REDUCTION.—The Secretary may reduce the non-Federal requirement under paragraph (1) if the Secretary determines that—

(A) the reduction is appropriate considering the technological risks involved; or

(B) the project is for technical analyses or other activities that the Secretary does not expect to result in a marketable product.

(3) SIZE OF NON-FEDERAL SHARE.—The Secretary may consider the size of the non-Federal share in selecting projects.

**SEC. 60004. INTERAGENCY TASK FORCE.**

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the President shall establish an interagency task force chaired by the Secretary or his designee with representatives from each of the following:

(1) The Office of Science and Technology Policy within the Executive Office of the President.

(2) The Department of Transportation.

(3) The Department of Defense.

(4) The Department of Commerce (including the National Institute of Standards and Technology).

(5) The Environmental Protection Agency.

(6) The National Aeronautics and Space Administration.

(7) Other Federal agencies as the Secretary determines appropriate.

(b) DUTIES.—

(1) PLANNING.—The interagency task force shall work toward—

(A) a safe, economical, and environmentally sound fuel infrastructure for hydrogen and hydrogen-carrier fuels, including an infrastructure that supports buses and other fleet transportation;

(B) fuel cells in government and other applications, including portable, stationary, and transportation applications;

(C) distributed power generation, including the generation of combined heat, power, and clean fuels including hydrogen;

(D) uniform hydrogen codes, standards, and safety protocols; and

(E) vehicle hydrogen fuel system integrity safety performance.

(2) ACTIVITIES.—The interagency task force may organize workshops and conferences, may issue publications, and may create databases to carry out its duties. The interagency task force shall—

(A) foster the exchange of generic, nonproprietary information and technology among industry, academia, and government;

(B) develop and maintain an inventory and assessment of hydrogen, fuel cells, and other advanced technologies, including the commercial capability of each technology for the economic and environmentally safe production, distribution, delivery, storage, and use of hydrogen;

(C) integrate technical and other information made available as a result of the programs and activities under this division;

(D) promote the marketplace introduction of infrastructure for hydrogen and other clean fuel vehicles; and

(E) conduct an education program to provide hydrogen and fuel cell information to potential end-users.

(c) AGENCY COOPERATION.—The heads of all agencies, including those whose agencies are not represented on the interagency task force, shall cooperate with and furnish information to the interagency task force, the Advisory Committee, and the Department.

**SEC. 60005. ADVISORY COMMITTEE.**

(a) ESTABLISHMENT.—The Hydrogen Technical and Fuel Cell Advisory Committee is established to advise the Secretary on the programs and activities under this division.

(b) MEMBERSHIP.—

(1) MEMBERS.—The Advisory Committee is comprised of not fewer than 12 nor more than 25 members. These members shall be appointed by the Secretary to represent domestic industry, academia, professional societies, government agencies, and financial, environmental, and other appropriate organizations based on the Department's assessment of the technical and other qualifications of committee members and the needs of the Advisory Committee.

(2) TERMS.—The term of a member of the Advisory Committee shall not be more than 3 years. The Secretary may appoint members of the Advisory Committee in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the Advisory Committee. A member of the Advisory Committee whose term is expiring may be reappointed.

(3) CHAIRPERSON.—The Advisory Committee shall have a chairperson, who is elected by the members from among their number.

(c) REVIEW.—The Advisory Committee shall review and make recommendations to the Secretary on—

(1) the implementation of programs and activities under this division;

(2) the safety, economical, and environmental consequences of technologies for the production, distribution, delivery, storage, or use of hydrogen energy and fuel cells; and

(3) the plan under section 60002.

(d) RESPONSE.—(1) The Secretary shall consider, but need not adopt, any recommendations of the Advisory Committee under subsection (c).

(2) The Secretary shall transmit a biennial report to the Congress describing any recommendations made by the Advisory Committee since the previous report. The report shall include a description of how the Secretary has implemented or plans to implement the recommendations, or an explanation of the reasons that a recommendation will not be implemented. The report shall be transmitted along with the President's budget proposal.

(e) SUPPORT.—The Secretary shall provide resources necessary in the judgment of the Secretary for the Advisory Committee to carry out its responsibilities under this division.

**SEC. 60006. EXTERNAL REVIEW.**

(a) PLAN.—The Secretary shall enter into an arrangement with a competitively selected nongovernmental entity, such as the National Academy of Sciences, to review the plan prepared under section 60002, which shall be completed not later than six months after the entity receives the plan. Not later than 45 days after receiving the review, the Secretary shall transmit the review to the Congress along with a plan to implement the review's recommendations or an explanation of the reasons that a recommendation will not be implemented.

(b) ADDITIONAL REVIEW.—The Secretary shall enter into an arrangement with a competitively selected nongovernmental entity, such as the National Academy of Sciences, under which the entity will review the program under section 60003 during the fourth year following the date of enactment of this Act. The entity's review shall include the research priorities and technical milestones, and evaluate the progress toward achieving them. The review shall be completed no later than five years after the date of enactment of this Act. Not later than 45 days after receiving the review, the Secretary shall transmit the review to the Congress along with a plan to implement the review's recommendations or an explanation for the reasons that a recommendation will not be implemented.

**SEC. 60007. MISCELLANEOUS PROVISIONS.**

(a) REPRESENTATION.—The Secretary may represent the United States interests with respect to activities and programs under this division, in coordination with the Department of Transportation, the National Institute of Standards and Technology, and other relevant Federal agencies, before governments and nongovernmental organizations including—

(1) other Federal, State, regional, and local governments and their representatives;

(2) industry and its representatives, including members of the energy and transportation industries; and

(3) in consultation with the Department of State, foreign governments and their representatives including international organizations.

(b) REGULATORY AUTHORITY.—Nothing in this division shall be construed to alter the regulatory authority of the Department.

**SEC. 60008. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this division, in addition to any amounts made available for these purposes under other Acts—

(1) $273,500,000 for fiscal year 2004;

(2) $325,000,000 for fiscal year 2005;

(3) $375,000,000 for fiscal year 2006;

(4) $400,000,000 for fiscal year 2007; and

(5) $425,000,000 for fiscal year 2008.''.

**SEC. 60009. FUEL CELL PROGRAM AT NATIONAL PARKS.**

The Secretary of Energy, in cooperation with the Secretary of Interior and the National Park Service, is authorized to establish a program to provide matching funds to assist in the deployment of fuel cells at one or more prominent National Parks. The Secretary of Energy shall transmit to Congress within 1 year, and annually thereafter, a report describing any activities taken pursuant to such program. The report shall address whether activities taken pursuant to such program reduce the environmental impacts of energy use at National Parks. There are authorized to be appropriated $2,000,000 for each of fiscal years 2004 through 2010 to carry out the purposes of this section.

**SEC. 60010. ADVANCED POWER SYSTEM TECHNOLOGY INCENTIVE PROGRAM.**

(a) PROGRAM.—The Secretary of Energy is authorized to establish an Advanced Power System Technology Incentive Program to support the deployment of certain advanced power system technologies and to improve and protect certain critical governmental, industrial, and commercial processes. Funds provided under this section shall be used by the Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application establishing an applicant as either—

(1) a qualifying advanced power system technology facility; or

(2) a qualifying security and assured power facility.

(b) INCENTIVES.—Subject to availability of funds, a payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at such facility. An additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at such facility. Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(c) ELIGIBILITY.—For purposes of this section—

(1) the term ''qualifying advanced power system technology facility'' means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy; and

(2) the term ''qualifying security and assured power facility'' means a qualifying advanced power system technology facility determined by the Secretary of Energy, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Energy for the purposes of this section, $10,000,000 for each of the fiscal years 2004 through 2010.

## DIVISION G—HOUSING

**SEC. 70001. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.**

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: '', including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures''; and

(2) in paragraph (2), by inserting before the semicolon the following: '', including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families''.

**SEC. 70002. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.**

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by inserting ''or efficiency'' after ''energy conservation'';

(2) by striking '', and except that'' and inserting ''; except that''; and

(3) by inserting before the period at the end the following: ''; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency''.

**SEC. 70003. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.**

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(ii)(IV) (relating to solar energy systems), by striking ''20 percent'' and inserting ''30 percent''.

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking ''20 percent'' and inserting ''30 percent''.

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii)(IV) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)(IV)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—Section 231(c)(2)(C) of the National Housing Act (12 U.S.C. 1715v(c)(2)(C)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

**SEC. 70004. PUBLIC HOUSING CAPITAL FUND.**

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (I), by striking ''and'' at the end;

(B) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

''(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.''; and

(2) in subsection (e)(2)(C)—

(A) by striking ''The'' and inserting the following:

''(i) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

''(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generations, advanced energy savings technologies, including renewable energy generation, and other such retrofits.''.

**SEC. 70005. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.**

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking ''financed with loans'' and inserting ''assisted'';

(2) by inserting after ''1959,'' the following: ''which are eligible multifamily housing projects (as such term is defined in section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to mortgage restructuring and rental assistance sufficiency plans under such Act,''; and

(3) by inserting after the period at the end of the first sentence the following new sentence: ''Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation.''.

**SEC. 70006. NORTH AMERICAN DEVELOPMENT BANK.**

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m–290m-3) is amended by adding at the end the following:

**''SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.**

''Consistent with the focus of the Bank's Charter on environmental infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.''.

**SEC. 70007. ENERGY-EFFICIENT APPLIANCES.**

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 552 of the National Energy Policy and Conservation Act (as amended by this Act), unless the purchase of energy-efficient appliances is not cost-effective to the agency.

**SEC. 70008. ENERGY EFFICIENCY STANDARDS.**

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2004'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development.''; and

(B) in paragraph (2), by striking ''Council of American'' and all that follows through ''90.1–1989')'' and inserting ''2000 International Energy Conservation Code'';

(2) in subsection (b)—

(A) by striking ''1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2004''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''; and

(3) in subsection (c)—

(A) in the heading, by striking ''MODEL ENERGY CODE'' and inserting ''THE INTERNATIONAL ENERGY CONSERVATION CODE''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''.

**SEC. 70009. ENERGY STRATEGY FOR HUD.**

The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress, not later than one year after the date of the enactment of this Act, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every two years thereafter on progress in implementing the strategy.

The CHAIRMAN. No amendment to the bill shall be in order except those printed in House Report 108–69. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–69.

AMENDMENT NO. 1 OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BOEHLERT:

In division A, at the end of title VIII add the following:

**SEC. ___. AVERAGE FUEL ECONOMY STANDARDS.**

(a) IN GENERAL.—Section 32902 of title 49, United States Code, is amended by redesignating subsections (i) and (j) in order as subsections (j) and (k), and by inserting after subsection (h) the following:

''(i) STANDARDS FOR MODEL YEARS AFTER 2004.—The Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles manufactured by a manufacturer in model years after model year 2004, that ensure that the total amount of oil required for fuel for use by automobiles in the United States in 2010 and each year thereafter is at least 5 percent less than the total amount of oil that would be required for fuel for such use if the average fuel economy standards remained at the same level as in 2004.''.

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)(1) in the first sentence by inserting ''and subsection (i)'' after ''of this subsection''; and

(2) in subsection (k) (as redesignated by subsection (a)) by striking ''or (g)'' and inserting ''(g), or (i)''.

The CHAIRMAN. Pursuant to House Resolution 189, the gentleman from New York (Mr. BOEHLERT) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I ask unanimous consent to yield 7 minutes to the gentleman from Massachusetts (Mr. MARKEY) for the purpose of control.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TAUZIN. Mr. Chairman, I claim the time in opposition, and I ask unanimous consent to yield 7 minutes to the gentleman from Michigan (Mr. DINGELL).

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. The gentleman from New York (Mr. BOEHLERT) will control 8 minutes and the gentleman from Massachusetts (Mr. MARKEY) will control 7 minutes as proponents to the amendment. The gentleman from Louisiana (Mr. TAUZIN) will control 8 minutes and the gentleman from Michigan (Mr. DINGELL) will control 7 minutes in opposition.

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think all Members know what this amendment is about. In fact, we had a lengthy debate on a similar amendment by the gentleman from Massachusetts (Mr. MARKEY) and I when the energy bill came up just 2 years ago. So many of my colleagues may be wondering why do we have to have this debate again. Well, a lot has changed in the intervening 2 years, changes that make this amendment even more important and even harder to oppose. What has changed?

First, over the past 2 years our Nation's oil consumption has continued to rise, and we have become even more dependent on foreign oil. Guess what most of that oil is used for? Transportation. Not electricity generation, not home heating, not industrial production, but transportation.

As the chart beside me shows, domestic production can provide the oil we require to meet almost all of our needs except transportation. And our demand for oil for transportation just gets larger and larger and larger. We have an insatiable appetite. But that does not have to be the case. Other sectors of our economy have become more oil efficient, but transportation has not.

What else has changed over the last 2 years? We have finally learned that SUVs are not a boon to safety. In fact, Dr. Jeffrey Runge, the chief auto safety official for the Bush administration, has made pointing out the safety failings of SUVs something of a crusade.

Not only do SUVs make driving unsafe for the people that may collide with them, SUVs are not especially safe for the people who drive them. SUVs are three times as likely as cars to roll over and cause death. So the argument that we cannot change SUVs because they advance the cause of safety is pure hogwash.

The third change over the past 2 years is that we have learned beyond a shadow of a doubt that automakers are perfectly capable of building SUVs with greater mileage. In fact, every place but Washington, D.C. they brag about it, as they should. GM and Ford have both announced plans to bring out an SUV that gets 40 miles per gallon in the next model year, not years down, the next model year. What we are told is impossible on the House floor turns out to be perfectly possible on the auto assembly floor.

In fact, it is possible and affordable to make even further improvements in SUV mileage with current available technology. This page of Automotive News, hardly a left-wing rag, spells out those technologies and their costs specifically.

The other change that has occurred in the past 2 years is we have had time to absorb the findings of the National Academy of Sciences' study. My colleagues may remember that the academy released a major, long-awaited study on fuel economy standards on the eve of the energy bill which was debated 2 years ago. That timing enabled all sorts of ridiculous claims to be made about what the study said because few had the opportunity to actually read it.

Now we all know exactly what the experts have said. There is nothing in the academy study that suggests we cannot improve CAFE standards. That is why the auto companies tried so hard, and unsuccessfully, I might report, to challenge the study.

Probably the most important point the academy had to make is on page 70 of their report. The academy said, ''It is technically feasible and potentially economical to improve fuel economy without reducing vehicle weight or size and, therefore, without significantly affecting the safety of motor vehicle travel.'' I hope we will not be hearing any nonsense this year about CAFE standards threatening safety. Those arguments should be a dead letter.

Now, let me dispense with two changes over the past 2 years that the opponents of this amendment may bring up. The first is that the administration recently announced an increase in CAFE standards. The administration should be congratulated for acknowledging the need to improve fuel economy. Give credit where credit is due, but the 1.5 mile per gallon increase over 3 years sought by the administration is minuscule, far less than what is needed and far less than what is possible.

But frankly, the opponents of this amendment ought to be embarrassed to bring up the administration's proposal. After all, the last time around, the authors of H.R. 6 told us that any increase in CAFE greater than a half mile per gallon over a decade would spell disaster for the economy. Now they have changed their tune. In fact, the authors of H.R. 6 will defend whatever the status quo is at any given moment because that is easier than debating what we could actually be doing to improve fuel economy.

The second change my opponents may bring up is that this is not exactly the same amendment as 2 years ago. That is true. But the standard in this amendment should not be any tougher to achieve. In fact, we have given the automakers more time to improve fuel economy than we did 2 years ago. Two years ago we proposed an average among all cars and light trucks of 27.5 miles per gallon by 2007.

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This amendment translates roughly into 30 miles per gallon by 2010, 3 additional years, and this amendment, like our last one, is flexible. We all want to give flexibility when possible.

The acoumeters can decide whether they want to reach these levels by improving the mileage of cars or SUVs or both. It does not set a specific standard for SUVs.

So, in short, there is more reason than ever to approve this amendment. Without this amendment the bill will do nothing, absolutely nothing, to improve energy efficiency in the sector of our economy that uses the most oil.

How can we be silent on fuel efficiency if this bill is going to accomplish anything at all? Our amendment would save more oil than would be produced from drilling in ANWR even under the most optimistic scenarios, and those figures come from the nonpartisan Congressional Research Service. So it ought to be hard to argue against this amendment with a straight face.

This amendment will not prevent anyone from buying an SUV. This amendment will not reduce safety. This amendment will not require acoumeters to produce any vehicle they have not already announced that they are building. This amendment will save consumers money and, boy, we all want to do that. This amendment will put the Nation on the road to true energy independence. This amendment deserves widespread support, and I urge its adoption.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. BONILLA). The gentleman's time has expired.

Mr. TAUZIN. Mr. Chairman, I yield myself 1 minute.

What the gentleman from New York (Mr. BOEHLERT) failed to quote from the National Academy of Sciences' study is found in Finding 13 on Page ES–8: ''If an increase in fuel economy is effected by a system that encourages either downweighting or the production and sale of more small cars, some additional traffic fatalities would be expected.'' In fact, the study estimates that between 1,300 and 2,600 fewer deaths on the highway would have occurred had average weight and size of the light-duty motor vehicle fleet in that year, 1993, had we had that instead of the CAFE requirements.

Let me make a quick case in this 1 minute. This amendment is worse than the one we had last year on the floor. This amendment is so severe that if you consider a 3- to 5-year cycle to get a new vehicle in production, the vehicles in 2010 would have to have a 30-mile per gallon, or a 36-mile per gallon. That is as much as a 50 percent increase in fuel efficiency. The only way to achieve that is lighter vehicles, less safe vehicles, more deaths on the highway.

This amendment needs to get rejected.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield myself 1½ minutes.

The United States has 3 percent of the oil reserves in the world. The Middle East has 75 percent. Technological genius is what we are all about. We see that in the Middle East right now. That is our strength.

We doubled the fuel economy in our country from 13 to 26 miles per gallon back in the middle of 1980s. With it, we had a plummeting of oil imports. Since 1987 we have slipped backwards in technology, and there has been a dramatic rise in the import of imported oil, up to 65 percent of our total oil. We can see the direct correlation between the power OPEC has over us and the increase in the number of SUVs and light trucks, with no controls, which are sold in our country.

When we reach 70 percent and 75 percent dependence upon imported oil, Iran and Syria and other countries that have large oil reserves over there, including Saudi Arabia, looking at us 10 years from now, will wonder why on the floor of the Congress with 250,000 troops over in the Middle East securing the oil fields of Iraq, we did not also increase the fuel economy standards of the Hummer 1s that are roaming the streets of the United States consuming gasoline at a rate of 11 miles per gallon.

It is one thing to have young men and women in these vehicles in the Middle East securing oil. It is another thing in our country not to have a plan to increase the fuel efficiency that reduces our oil consumption, to avoid the necessity of sending them back there again.

Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding me this time.

I must disagree with the gentleman from New York. I was a police officer for 13 years during this time from 1975 to 1998, and if we look at this article from 1999, it says ''death by the gallon.'' From 1975 to 1998, we had 46,000 more deaths on the highways because we were driving smaller cars and trying to obtain the CAFE standard, the fuel efficiency. So we bring smaller cars in, and it results in more deaths on the highway. And as the chairman quoted, the National Academy of Sciences found in 2001, in their report on CAFE, reducing the size and weight of vehicles affects vehicle safety, increases the likelihood of traffic fatalities on the highways.

The better way to increase fuel economy throughout is the development and the advancement of technologies like are found in this bill in hybrid and fuel cells. The acoumeters are already moving these technologies into the marketplace. To go with the standard proposed by the proponents of this new CAFE standard of a 5 percent, we would have to get the 30 miles, which is not even in the marketplace right now.

Reject this amendment.

Mr. MARKEY. Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. ROGERS), a distinguished member of the Committee on Energy and Commerce.

Mr. ROGERS of Michigan. Mr. Chairman, I thank the chairman for his work on this energy bill.

To my good friends from New York, I do appreciate their efforts here, however misguided. This is like trying to treat obesity by mandating smaller pants sizes. This does not consider energy costs or slowing sales on behalf of car companies due to the recession. It does not consider higher production costs.

And what it means is, they will take research and development money and take it away from research and development to reengineer these vehicles, which means lower weight. Lower weight means more fatalities.

If the Members believe in hydrogen vehicles, if the Members believe in hybrid vehicles, if the Members believe in the future of automobiles being cleaner and having the weight and size for safety, this is not the bill. This amendment will take $73 billion away from auto manufacturers, from researching and developing hybrid and hydrogen technology and flush it down the tubes to reengineer for less weight and taking vehicles out of production.

We all want to get to the same place. Let us stand up for the security of our jobs, the health of our Nation, and the safety of those who drive. Let us soundly reject this amendment.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I rise today to oppose this unnecessary amendment, which will hurt our already struggling economy. It will jeopardize the jobs of workers in Flint, Bay City, Saginaw, and other communities in my home State of Michigan. It will undermine the efforts we, as a Nation, are making through the investment of billions of dollars in alternative fuels and advanced technology vehicles.

The broad range of organizations opposing this amendment demonstrate its flaws. These include the AFL–CIO, United Auto Workers, National Association of Manufacturers, the National Farm Bureau, and the U.S. Chamber of Commerce. This is the wrong amendment at the wrong time. Our automobile industry and their dedicated workers deserve our support, and we can give it to them by rejecting this amendment.

Just recently the National Highway Traffic Administration did their job and increased CAFE standards. This amendment will lead to reduced passenger safety, the loss of jobs and economic damage.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. OLVER).

(Mr. OLVER asked and was given permission to revise and extend his remarks.)

Mr. OLVER. Mr. Chairman, we should raise CAFE standards because that would reduce this Nation's dependence on foreign oil and reduce America's contribution to global warming. Cars and light trucks consume 40 percent of the oil we use and emit 20 percent of the carbon dioxide we produce. And CO2 is the major cause of global warming. It is embarrassing that we have not significantly raised CAFE standards in a decade, when the technology is so readily available.

Overall fuel efficiency has declined as SUVs have grown to nearly 50 percent of the market, and the situation is certain to get worse as supersized, unregulated SUVs penetrate the market. The amendment before us requires a 5 percent reduction in oil usage by cars and light trucks by 2010. It would save half a million barrels of oil every day and reduce carbon dioxide emissions by over 90 million tons every day.

I urge a ''yes'' vote on the Boehlert-Markey amendment.

I would like to thank the distinguished chair of the Science committee and the gentleman from Massachusetts for bringing this important amendment to the floor today.

We should raise CAFE standards because that would reduce this nation's dependence on foreign oil and reduce America's contribution to global warming.

Cars and light trucks consume 40 percent of the oil we use and emit 20 percent of the carbon dioxide we produce. And $CO_2$ is the major cause of global warming—the single most critical environmental issue facing us. The consensus among the world's leading scientists warn that over this century, $CO_2$ levels will double. Seas levels are already rising, and glaciers are melting.

It's embarrassing that we have not significantly raised CAFE standards in a decade, when the technology is so readily available. Overall fuel efficiency has declined, as SUVs have grown to nearly 50 percent of the market. And the situation is certain to get worse, as supersized, unregulated SUVs—those over 8,500 pounds—penetrate the market.

The amendment before us requires a 5 percent reduction in oil usage by cars and light trucks by 2010. It would save half a million barrels of oil every day and reduce carbon dioxide emissions by over 90 million tons every day.

I personally hope that this debate today will encourage automakers to rapidly replace the outdated, low efficiency technology so embedded in the cars and trucks we drive. The National Academy of Sciences report issued in July of 2001 demonstrates that the technologies already exist to take us even further than this modest amendment would require.

I urge a "yes" vote on the Boehlert-Markey amendment.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Chairman, I thank the chairman for yielding me this time.

I want to introduce another point to this topic of debate, and that is, if we take a look at the fleet consistency of the different car manufacturers, the Big Three American auto manufacturers sell more SUVs and trucks than light cars, relative to the Japanese auto manufacturers, who sell more light, small cars relative to trucks and SUVs. What ends up happening is, this amendment will not serve to get more heavy trucks off the road. It will simply serve to shift market share from U.S. auto manufacturers to Japanese auto manufacturers, and the short time line will actually require the lines to go down.

So the line that makes the Tahoes and Suburbans in Janesville, Wisconsin, which is on a 5-year schedule, will have to go down to accommodate these changes. Meanwhile, Japanese acoumeters, like the Sequoias, will fill in and take that market share.

It will not take more cars off the road. It will change market share from U.S. auto manufacturers to Japanese auto manufacturers, and it will simply cost U.S. auto manufacturing jobs.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

(Ms. SCHAKOWSKY asked and was given permission to revise and extend her remarks.)

Ms. SCHAKOWSKY. Mr. Chairman, I rise today in strong support of the Boehlert-Markey amendment, which saves oil by increasing fuel economy standards for autos and light trucks. Increasing the standard will reduce the amount of oil the Nation must now import.

Research tells us by simply increasing average fuel efficiencies on cars, SUVs, and light trucks from 24 to 39 miles per gallon over the next decade would save 51 billion barrels of oil, more than 15 times the likely yield from the Arctic.

The technology is there. It is about time we utilize it. Our children are looking to us to leave them with a safe and healthy environment. I urge my colleagues to support the amendment.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. DOYLE).

Mr. DOYLE. Mr. Chairman, I would respectfully add my voice to those opposing this amendment. While I can agree that we all want to reduce our imports of foreign oil, I have not been convinced that raising CAFE standards would actually accomplish this.

As I understand it, our import share of oil consumption was 35 percent in 1974. Since then our new fuel car economy has roughly doubled, but our oil import share has risen, nonetheless, to about 50 percent. For this reason, I am not convinced that the amendment, if adopted, would achieve what I believe is one of its primary goals.

Additionally, at this time, our economy is struggling. Unemployment is rising, new job growth is stagnating, and there is increasing concern throughout my district and the country about the direction our economy is headed. Yet this amendment could have a devastating impact on the automobile industry which is critical to our economy.

Even in my home State of Pennsylvania, which is not normally thought of as a State closely tied to the automotive industry, a total of 220,800 jobs are dependent on the industry.

***NOTICE***

***Incomplete record of House proceedings. Except for the Conference Report on H. Con. Res. 95, which follows, today's House proceedings will be continued in the next issue of the Record.***

CONFERENCE REPORT (H. REPT. 108–71)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 95), establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

***SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004.***

*(a) DECLARATION.—The Congress declares that the concurrent resolution on the budget for fiscal year 2004 is hereby established and that the appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 are hereby set forth.*

*(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:*

## *TITLE I—RECOMMENDED LEVELS AND AMOUNTS*

***SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.***

*The following budgetary levels are appropriate for each of fiscal years 2003 through 2013:*

*(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:*

*(A) The recommended levels of Federal revenues are as follows:*

*Fiscal year 2003: $1,303,111,000,000.*
*Fiscal year 2004: $1,325,452,000,000.*
*Fiscal year 2005: $1,493,875,000,000.*
*Fiscal year 2006: $1,657,511,000,000.*
*Fiscal year 2007: $1,790,251,000,000.*
*Fiscal year 2008: $1,901,844,000,000.*
*Fiscal year 2009: $2,053,762,000,000.*
*Fiscal year 2010: $2,167,937,000,000.*
*Fiscal year 2011: $2,270,540,000,000.*
*Fiscal year 2012: $2,409,572,000,000.*
*Fiscal year 2013: $2,553,985,000,000.*

*(B) The amounts by which the aggregate levels of Federal revenues should be reduced are as follows:*

*Fiscal year 2003: $56,723,000,000.*
*Fiscal year 2004: $140,918,000,000.*
*Fiscal year 2005: $123,151,000,000.*
*Fiscal year 2006: $83,161,000,000.*
*Fiscal year 2007: $62,915,000,000.*
*Fiscal year 2008: $61,133,000,000.*
*Fiscal year 2009: $24,568,000,000.*
*Fiscal year 2010: $25,105,000,000.*
*Fiscal year 2011: $156,956,000,000.*
*Fiscal year 2012: $240,207,000,000.*
*Fiscal year 2013: $250,225,000,000.*

*(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:*

*Fiscal year 2003: $1,862,613,000,000.*
*Fiscal year 2004: $1,861,004,000,000.*
*Fiscal year 2005: $1,990,236,000,000.*
*Fiscal year 2006: $2,122,301,000,000.*
*Fiscal year 2007: $2,232,829,000,000.*
*Fiscal year 2008: $2,348,872,000,000.*
*Fiscal year 2009: $2,454,439,000,000.*
*Fiscal year 2010: $2,555,612,000,000.*
*Fiscal year 2011: $2,669,462,000,000.*
*Fiscal year 2012: $2,754,007,000,000.*
*Fiscal year 2013: $2,875,121,000,000.*

*(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:*

*Fiscal year 2003: $1,815,395,000,000.*
*Fiscal year 2004: $1,883,834,000,000.*
*Fiscal year 2005: $1,981,402,000,000.*
*Fiscal year 2006: $2,089,299,000,000.*
*Fiscal year 2007: $2,190,576,000,000.*
*Fiscal year 2008: $2,307,259,000,000.*
*Fiscal year 2009: $2,419,846,000,000.*
*Fiscal year 2010: $2,527,898,000,000.*
*Fiscal year 2011: $2,651,220,000,000.*
*Fiscal year 2012: $2,723,935,000,000.*
*Fiscal year 2013: $2,855,491,000,000.*

*(4) DEFICITS (ON-BUDGET).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:*

*Fiscal year 2003: $512,284,000,000.*
*Fiscal year 2004: $558,382,000,000.*
*Fiscal year 2005: $487,527,000,000.*
*Fiscal year 2006: $431,788,000,000.*
*Fiscal year 2007: $400,325,000,000.*
*Fiscal year 2008: $405,415,000,000.*
*Fiscal year 2009: $366,084,000,000.*
*Fiscal year 2010: $359,961,000,000.*
*Fiscal year 2011: $380,680,000,000.*
*Fiscal year 2012: $314,363,000,000.*
*Fiscal year 2013: $301,506,000,000.*

*(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:*

*Fiscal year 2003: $6,747,000,000,000.*
*Fiscal year 2004: $7,384,000,000,000.*
*Fiscal year 2005: $7,978,000,000,000.*
*Fiscal year 2006: $8,534,000,000,000.*
*Fiscal year 2007: $9,064,000,000,000.*
*Fiscal year 2008: $9,602,000,000,000.*
*Fiscal year 2009: $10,102,000,000,000.*
*Fiscal year 2010: $10,601,000,000,000.*
*Fiscal year 2011: $11,125,000,000,000.*
*Fiscal year 2012: $11,588,000,000,000.*
*Fiscal year 2013: $12,040,000,000,000.*

*(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:*

*Fiscal year 2003: $3,917,000,000,000.*
*Fiscal year 2004: $4,299,000,000,000.*
*Fiscal year 2005: $4,599,000,000,000.*
*Fiscal year 2006: $4,829,000,000,000.*
*Fiscal year 2007: $5,007,000,000,000.*
*Fiscal year 2008: $5,169,000,000,000.*
*Fiscal year 2009: $5,272,000,000,000.*
*Fiscal year 2010: $5,349,000,000,000.*
*Fiscal year 2011: $5,428,000,000,000.*
*Fiscal year 2012: $5,424,000,000,000.*
*Fiscal year 2013: $5,394,000,000,000.*

***SEC. 102. SOCIAL SECURITY.***

*(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:*

*Fiscal year 2003: $531,607,000,000.*
*Fiscal year 2004: $557,821,000,000.*
*Fiscal year 2005: $587,775,000,000.*
*Fiscal year 2006: $619,062,000,000.*
*Fiscal year 2007: $651,148,000,000.*
*Fiscal year 2008: $684,429,000,000.*
*Fiscal year 2009: $719,132,000,000.*
*Fiscal year 2010: $755,754,000,000.*
*Fiscal year 2011: $792,152,000,000.*
*Fiscal year 2012: $829,568,000,000.*
*Fiscal year 2013: $869,690,000,000.*

*(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:*

*Fiscal year 2003: $366,278,000,000.*
*Fiscal year 2004: $380,389,000,000.*
*Fiscal year 2005: $390,148,000,000.*
*Fiscal year 2006: $402,413,000,000.*
*Fiscal year 2007: $415,269,000,000.*
*Fiscal year 2008: $429,061,000,000.*
*Fiscal year 2009: $445,442,000,000.*
*Fiscal year 2010: $463,613,000,000.*
*Fiscal year 2011: $482,034,000,000.*
*Fiscal year 2012: $504,888,000,000.*
*Fiscal year 2013: $531,118,000,000.*

*(c) SOCIAL SECURITY ADMINISTRATIVE EXPENSES.—In the Senate, the amounts of new budget authority and budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for administrative expenses are as follows:*

*Fiscal year 2003:*
*(A) New budget authority, $3,812,000,000.*
*(B) Outlays, $3,838,000,000.*
*Fiscal year 2004:*
*(A) New budget authority, $4,257,000,000.*
*(B) Outlays, $4,207,000,000.*
*Fiscal year 2005:*
*(A) New budget authority, $4,338,000,000.*
*(B) Outlays, $4,301,000,000.*
*Fiscal year 2006:*
*(A) New budget authority, $4,424,000,000.*
*(B) Outlays, $4,409,000,000.*
*Fiscal year 2007:*
*(A) New budget authority, $4,522,000,000.*
*(B) Outlays, $4,505,000,000.*
*Fiscal year 2008:*
*(A) New budget authority, $4,638,000,000.*
*(B) Outlays, $4,617,000,000.*

*Fiscal year 2009:*
*(A) New budget authority, $4,792,000,000.*
*(B) Outlays, $4,766,000,000.*
*Fiscal year 2010:*
*(A) New budget authority, $4,954,000,000.*
*(B) Outlays, $4,924,000,000.*
*Fiscal year 2011:*
*(A) New budget authority, $5,121,000,000.*
*(B) Outlays, $5,091,000,000.*
*Fiscal year 2012:*
*(A) New budget authority, $5,292,000,000.*
*(B) Outlays, $5,260,000,000.*
*Fiscal year 2013:*
*(A) New budget authority, $5,471,000,000.*
*(B) Outlays, $5,439,000,000.*

***SEC. 103. MAJOR FUNCTIONAL CATEGORIES.***

*The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2003 through 2013 for each major functional category are:*

*(1) National Defense (050):*
*Fiscal year 2003:*
*(A) New budget authority, $392,494,000,000.*
*(B) Outlays, $386,229,000,000.*
*Fiscal year 2004:*
*(A) New budget authority, $400,546,000,000.*
*(B) Outlays, $400,916,000,000.*
*Fiscal year 2005:*
*(A) New budget authority, $420,071,000,000.*
*(B) Outlays, $414,237,000,000.*
*Fiscal year 2006:*
*(A) New budget authority, $440,185,000,000.*
*(B) Outlays, $426,011,000,000.*
*Fiscal year 2007:*
*(A) New budget authority, $460,435,000,000.*
*(B) Outlays, $438,656,000,000.*
*Fiscal year 2008:*
*(A) New budget authority, $480,886,000,000.*
*(B) Outlays, $462,861,000,000.*
*Fiscal year 2009:*
*(A) New budget authority, $491,951,000,000.*
*(B) Outlays, $479,249,000,000.*
*Fiscal year 2010:*
*(A) New budget authority, $502,301,000,000.*
*(B) Outlays, $493,195,000,000.*
*Fiscal year 2011:*
*(A) New budget authority, $511,859,000,000.*
*(B) Outlays, $508,131,000,000.*
*Fiscal year 2012:*
*(A) New budget authority, $520,553,000,000.*
*(B) Outlays, $510,509,000,000.*
*Fiscal year 2013:*
*(A) New budget authority, $529,428,000,000.*
*(B) Outlays, $524,494,000,000.*

*(2) International Affairs (150):*
*Fiscal year 2003:*
*(A) New budget authority, $22,506,000,000.*
*(B) Outlays, $19,283,000,000.*
*Fiscal year 2004:*
*(A) New budget authority, $25,681,000,000.*
*(B) Outlays, $24,207,000,000.*
*Fiscal year 2005:*
*(A) New budget authority, $29,734,000,000.*
*(B) Outlays, $24,917,000,000.*
*Fiscal year 2006:*
*(A) New budget authority, $32,308,000,000.*
*(B) Outlays, $26,539,000,000.*
*Fiscal year 2007:*
*(A) New budget authority, $33,603,000,000.*
*(B) Outlays, $28,464,000,000.*
*Fiscal year 2008:*
*(A) New budget authority, $34,611,000,000.*
*(B) Outlays, $29,604,000,000.*
*Fiscal year 2009:*
*(A) New budget authority, $35,413,000,000.*
*(B) Outlays, $30,733,000,000.*
*Fiscal year 2010:*
*(A) New budget authority, $36,258,000,000.*
*(B) Outlays, $31,689,000,000.*
*Fiscal year 2011:*
*(A) New budget authority, $37,136,000,000.*
*(B) Outlays, $32,565,000,000.*
*Fiscal year 2012:*
*(A) New budget authority, $38,005,000,000.*
*(B) Outlays, $33,408,000,000.*
*Fiscal year 2013:*
*(A) New budget authority, $38,885,000,000.*
*(B) Outlays, $34,298,000,000.*

*(3) General Science, Space, and Technology (250):*
*Fiscal year 2003:*
*(A) New budget authority, $23,153,000,000.*
*(B) Outlays, $21,556,000,000.*
*Fiscal year 2004:*
*(A) New budget authority, $23,927,000,000.*
*(B) Outlays, $22,799,000,000.*
*Fiscal year 2005:*
*(A) New budget authority, $24,433,000,000.*
*(B) Outlays, $23,861,000,000.*
*Fiscal year 2006:*
*(A) New budget authority, $25,217,000,000.*
*(B) Outlays, $24,485,000,000.*
*Fiscal year 2007:*
*(A) New budget authority, $26,055,000,000.*
*(B) Outlays, $25,221,000,000.*
*Fiscal year 2008:*
*(A) New budget authority, $26,832,000,000.*
*(B) Outlays, $25,948,000,000.*
*Fiscal year 2009:*
*(A) New budget authority, $27,462,000,000.*
*(B) Outlays, $26,639,000,000.*
*Fiscal year 2010:*
*(A) New budget authority, $28,121,000,000.*
*(B) Outlays, $27,296,000,000.*
*Fiscal year 2011:*
*(A) New budget authority, $28,805,000,000.*
*(B) Outlays, $27,963,000,000.*
*Fiscal year 2012:*
*(A) New budget authority, $29,492,000,000.*
*(B) Outlays, $28,639,000,000.*
*Fiscal year 2013:*
*(A) New budget authority, $30,185,000,000.*
*(B) Outlays, $29,319,000,000.*

*(4) Energy (270):*
*Fiscal year 2003:*
*(A) New budget authority, $2,074,000,000.*
*(B) Outlays, $439,000,000.*
*Fiscal year 2004:*
*(A) New budget authority, $2,634,000,000.*
*(B) Outlays, $873,000,000.*
*Fiscal year 2005:*
*(A) New budget authority, $2,797,000,000.*
*(B) Outlays, $947,000,000.*
*Fiscal year 2006:*
*(A) New budget authority, $2,714,000,000.*
*(B) Outlays, $1,272,000,000.*
*Fiscal year 2007:*
*(A) New budget authority, $2,540,000,000.*
*(B) Outlays, $1,069,000,000.*
*Fiscal year 2008:*
*(A) New budget authority, $3,080,000,000.*
*(B) Outlays, $1,419,000,000.*
*Fiscal year 2009:*
*(A) New budget authority, $3,090,000,000.*
*(B) Outlays, $1,686,000,000.*
*Fiscal year 2010:*
*(A) New budget authority, $3,194,000,000.*
*(B) Outlays, $1,794,000,000.*
*Fiscal year 2011:*
*(A) New budget authority, $3,296,000,000.*
*(B) Outlays, $1,976,000,000.*
*Fiscal year 2012:*
*(A) New budget authority, $3,408,000,000.*
*(B) Outlays, $2,357,000,000.*
*Fiscal year 2013:*
*(A) New budget authority, $3,520,000,000.*
*(B) Outlays, $2,326,000,000.*

*(5) Natural Resources and Environment (300):*
*Fiscal year 2003:*
*(A) New budget authority, $30,816,000,000.*
*(B) Outlays, $28,940,000,000.*
*Fiscal year 2004:*
*(A) New budget authority, $31,623,000,000.*
*(B) Outlays, $30,782,000,000.*
*Fiscal year 2005:*
*(A) New budget authority, $32,504,000,000.*
*(B) Outlays, $31,654,000,000.*
*Fiscal year 2006:*
*(A) New budget authority, $32,962,000,000.*
*(B) Outlays, $32,830,000,000.*
*Fiscal year 2007:*
*(A) New budget authority, $33,386,000,000.*
*(B) Outlays, $33,127,000,000.*
*Fiscal year 2008:*
*(A) New budget authority, $34,064,000,000.*
*(B) Outlays, $33,527,000,000.*
*Fiscal year 2009:*
*(A) New budget authority, $35,183,000,000.*
*(B) Outlays, $34,544,000,000.*
*Fiscal year 2010:*
*(A) New budget authority, $36,021,000,000.*
*(B) Outlays, $35,360,000,000.*
*Fiscal year 2011:*
*(A) New budget authority, $36,829,000,000.*
*(B) Outlays, $36,163,000,000.*
*Fiscal year 2012:*
*(A) New budget authority, $37,529,000,000.*
*(B) Outlays, $36,836,000,000.*
*Fiscal year 2013:*
*(A) New budget authority, $38,214,000,000.*
*(B) Outlays, $37,600,000,000.*

*(6) Agriculture (350):*
*Fiscal year 2003:*
*(A) New budget authority, $24,418,000,000.*
*(B) Outlays, $23,365,000,000.*
*Fiscal year 2004:*
*(A) New budget authority, $24,583,000,000.*
*(B) Outlays, $23,656,000,000.*
*Fiscal year 2005:*
*(A) New budget authority, $27,003,000,000.*
*(B) Outlays, $25,763,000,000.*
*Fiscal year 2006:*
*(A) New budget authority, $26,828,000,000.*
*(B) Outlays, $25,593,000,000.*
*Fiscal year 2007:*
*(A) New budget authority, $26,299,000,000.*
*(B) Outlays, $25,107,000,000.*
*Fiscal year 2008:*
*(A) New budget authority, $25,507,000,000.*
*(B) Outlays, $24,381,000,000.*
*Fiscal year 2009:*
*(A) New budget authority, $26,092,000,000.*
*(B) Outlays, $25,128,000,000.*
*Fiscal year 2010:*
*(A) New budget authority, $25,545,000,000.*
*(B) Outlays, $24,716,000,000.*
*Fiscal year 2011:*
*(A) New budget authority, $24,991,000,000.*
*(B) Outlays, $24,180,000,000.*
*Fiscal year 2012:*
*(A) New budget authority, $24,573,000,000.*
*(B) Outlays, $23,778,000,000.*
*Fiscal year 2013:*
*(A) New budget authority, $24,297,000,000.*
*(B) Outlays, $23,498,000,000.*

*(7) Commerce and Housing Credit (370):*
*Fiscal year 2003:*
*(A) New budget authority, $8,812,000,000.*
*(B) Outlays, $5,881,000,000.*
*Fiscal year 2004:*
*(A) New budget authority, $7,516,000,000.*
*(B) Outlays, $3,574,000,000.*
*Fiscal year 2005:*
*(A) New budget authority, $8,743,000,000.*
*(B) Outlays, $4,050,000,000.*
*Fiscal year 2006:*
*(A) New budget authority, $8,280,000,000.*
*(B) Outlays, $3,116,000,000.*
*Fiscal year 2007:*
*(A) New budget authority, $8,626,000,000.*
*(B) Outlays, $2,651,000,000.*
*Fiscal year 2008:*
*(A) New budget authority, $8,743,000,000.*
*(B) Outlays, $2,243,000,000.*
*Fiscal year 2009:*
*(A) New budget authority, $8,526,000,000.*
*(B) Outlays, $2,019,000,000.*
*Fiscal year 2010:*
*(A) New budget authority, $8,407,000,000.*
*(B) Outlays, $1,538,000,000.*
*Fiscal year 2011:*
*(A) New budget authority, $8,386,000,000.*
*(B) Outlays, $934,000,000.*
*Fiscal year 2012:*
*(A) New budget authority, $8,489,000,000.*
*(B) Outlays, $642,000,000.*
*Fiscal year 2013:*
*(A) New budget authority, $8,563,000,000.*
*(B) Outlays, $756,000,000.*

*(8) Transportation (400):*
*Fiscal year 2003:*
*(A) New budget authority, $64,091,000,000.*
*(B) Outlays, $67,847,000,000.*

Fiscal year 2004:
(A) New budget authority, $69,506,000,000.
(B) Outlays, $69,869,000,000.
Fiscal year 2005:
(A) New budget authority, $70,489,000,000.
(B) Outlays, $69,442,000,000.
Fiscal year 2006:
(A) New budget authority, $72,496,000,000.
(B) Outlays, $70,191,000,000.
Fiscal year 2007:
(A) New budget authority, $75,278,000,000.
(B) Outlays, $71,786,000,000.
Fiscal year 2008:
(A) New budget authority, $76,927,000,000.
(B) Outlays, $73,659,000,000.
Fiscal year 2009:
(A) New budget authority, $78,878,000,000.
(B) Outlays, $75,632,000,000.
Fiscal year 2010:
(A) New budget authority, $77,747,000,000.
(B) Outlays, $77,233,000,000.
Fiscal year 2011:
(A) New budget authority, $78,624,000,000.
(B) Outlays, $78,291,000,000.
Fiscal year 2012:
(A) New budget authority, $79,527,000,000.
(B) Outlays, $79,317,000,000.
Fiscal year 2013:
(A) New budget authority, $80,466,000,000.
(B) Outlays, $80,346,000,000.
(9) Community and Regional Development (450):
Fiscal year 2003:
(A) New budget authority, $12,251,000,000.
(B) Outlays, $15,994,000,000.
Fiscal year 2004:
(A) New budget authority, $14,063,000,000.
(B) Outlays, $15,823,000,000.
Fiscal year 2005:
(A) New budget authority, $14,138,000,000.
(B) Outlays, $15,872,000,000.
Fiscal year 2006:
(A) New budget authority, $14,321,000,000.
(B) Outlays, $14,961,000,000.
Fiscal year 2007:
(A) New budget authority, $14,536,000,000.
(B) Outlays, $14,664,000,000.
Fiscal year 2008:
(A) New budget authority, $14,745,000,000.
(B) Outlays, $14,123,000,000.
Fiscal year 2009:
(A) New budget authority, $14,980,000,000.
(B) Outlays, $14,298,000,000.
Fiscal year 2010:
(A) New budget authority, $15,233,000,000.
(B) Outlays, $14,501,000,000.
Fiscal year 2011:
(A) New budget authority, $15,492,000,000.
(B) Outlays, $14,750,000,000.
Fiscal year 2012:
(A) New budget authority, $15,755,000,000.
(B) Outlays, $14,992,000,000.
Fiscal year 2013:
(A) New budget authority, $16,023,000,000.
(B) Outlays, $15,259,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 2003:
(A) New budget authority, $82,699,000,000.
(B) Outlays, $81,455,000,000.
Fiscal year 2004:
(A) New budget authority, $90,035,000,000.
(B) Outlays, $84,205,000,000.
Fiscal year 2005:
(A) New budget authority, $91,442,000,000.
(B) Outlays, $87,020,000,000.
Fiscal year 2006:
(A) New budget authority, $93,428,000,000.
(B) Outlays, $90,541,000,000.
Fiscal year 2007:
(A) New budget authority, $95,569,000,000.
(B) Outlays, $92,986,000,000.
Fiscal year 2008:
(A) New budget authority, $97,925,000,000.
(B) Outlays, $95,118,000,000.
Fiscal year 2009:
(A) New budget authority, $99,813,000,000.
(B) Outlays, $97,440,000,000.
Fiscal year 2010:
(A) New budget authority, $101,551,000,000.
(B) Outlays, $99,289,000,000.
Fiscal year 2011:
(A) New budget authority, $103,529,000,000.
(B) Outlays, $101,117,000,000.
Fiscal year 2012:
(A) New budget authority, $105,790,000,000.
(B) Outlays, $102,985,000,000.
Fiscal year 2013:
(A) New budget authority, $107,265,000,000.
(B) Outlays, $104,934,000,000.
(11) Health (550):
Fiscal year 2003:
(A) New budget authority, $222,913,000,000.
(B) Outlays, $217,881,000,000.
Fiscal year 2004:
(A) New budget authority, $240,554,000,000.
(B) Outlays, $238,785,000,000.
Fiscal year 2005:
(A) New budget authority, $259,701,000,000.
(B) Outlays, $259,403,000,000.
Fiscal year 2006:
(A) New budget authority, $279,236,000,000.
(B) Outlays, $279,024,000,000.
Fiscal year 2007:
(A) New budget authority, $299,614,000,000.
(B) Outlays, $298,681,000,000.
Fiscal year 2008:
(A) New budget authority, $322,061,000,000.
(B) Outlays, $320,731,000,000.
Fiscal year 2009:
(A) New budget authority, $345,548,000,000.
(B) Outlays, $344,059,000,000.
Fiscal year 2010:
(A) New budget authority, $370,626,000,000.
(B) Outlays, $369,097,000,000.
Fiscal year 2011:
(A) New budget authority, $396,818,000,000.
(B) Outlays, $395,280,000,000.
Fiscal year 2012:
(A) New budget authority, $415,790,000,000.
(B) Outlays, $414,384,000,000.
Fiscal year 2013:
(A) New budget authority, $445,484,000,000.
(B) Outlays, $444,082,000,000.
(12) Medicare (570):
Fiscal year 2003:
(A) New budget authority, $248,586,000,000.
(B) Outlays, $248,434,000,000.
Fiscal year 2004:
(A) New budget authority, $266,018,000,000.
(B) Outlays, $266,283,000,000.
Fiscal year 2005:
(A) New budget authority, $282,682,000,000.
(B) Outlays, $285,630,000,000.
Fiscal year 2006:
(A) New budget authority, $321,623,000,000.
(B) Outlays, $318,384,000,000.
Fiscal year 2007:
(A) New budget authority, $343,717,000,000.
(B) Outlays, $343,987,000,000.
Fiscal year 2008:
(A) New budget authority, $369,244,000,000.
(B) Outlays, $369,119,000,000.
Fiscal year 2009:
(A) New budget authority, $395,368,000,000.
(B) Outlays, $395,107,000,000.
Fiscal year 2010:
(A) New budget authority, $423,288,000,000.
(B) Outlays, $423,546,000,000.
Fiscal year 2011:
(A) New budget authority, $453,285,000,000.
(B) Outlays, $456,642,000,000.
Fiscal year 2012:
(A) New budget authority, $485,951,000,000.
(B) Outlays, $482,125,000,000.
Fiscal year 2013:
(A) New budget authority, $526,553,000,000.
(B) Outlays, $526,809,000,000.
(13) Income Security (600):
Fiscal year 2003:
(A) New budget authority, $326,390,000,000.
(B) Outlays, $334,177,000,000.
Fiscal year 2004:
(A) New budget authority, $319,518,000,000.
(B) Outlays, $324,840,000,000.
Fiscal year 2005:
(A) New budget authority, $333,821,000,000.
(B) Outlays, $337,123,000,000.
Fiscal year 2006:
(A) New budget authority, $341,816,000,000.
(B) Outlays, $344,292,000,000.
Fiscal year 2007:
(A) New budget authority, $349,199,000,000.
(B) Outlays, $350,945,000,000.
Fiscal year 2008:
(A) New budget authority, $361,697,000,000.
(B) Outlays, $362,808,000,000.
Fiscal year 2009:
(A) New budget authority, $373,372,000,000.
(B) Outlays, $374,083,000,000.
Fiscal year 2010:
(A) New budget authority, $384,844,000,000.
(B) Outlays, $385,347,000,000.
Fiscal year 2011:
(A) New budget authority, $400,266,000,000.
(B) Outlays, $400,688,000,000.
Fiscal year 2012:
(A) New budget authority, $403,738,000,000.
(B) Outlays, $404,146,000,000.
Fiscal year 2013:
(A) New budget authority, $418,672,000,000.
(B) Outlays, $419,245,000,000.
(14) Social Security (650):
Fiscal year 2003:
(A) New budget authority, $13,255,000,000.
(B) Outlays, $13,255,000,000.
Fiscal year 2004:
(A) New budget authority, $14,294,000,000.
(B) Outlays, $14,293,000,000.
Fiscal year 2005:
(A) New budget authority, $15,471,000,000.
(B) Outlays, $15,471,000,000.
Fiscal year 2006:
(A) New budget authority, $16,421,000,000.
(B) Outlays, $16,421,000,000.
Fiscal year 2007:
(A) New budget authority, $17,919,000,000.
(B) Outlays, $17,919,000,000.
Fiscal year 2008:
(A) New budget authority, $19,704,000,000.
(B) Outlays, $19,704,000,000.
Fiscal year 2009:
(A) New budget authority, $21,810,000,000.
(B) Outlays, $21,810,000,000.
Fiscal year 2010:
(A) New budget authority, $24,283,000,000.
(B) Outlays, $24,283,000,000.
Fiscal year 2011:
(A) New budget authority, $28,170,000,000.
(B) Outlays, $28,170,000,000.
Fiscal year 2012:
(A) New budget authority, $31,357,000,000.
(B) Outlays, $31,357,000,000.
Fiscal year 2013:
(A) New budget authority, $34,347,000,000.
(B) Outlays, $34,347,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2003:
(A) New budget authority, $57,597,000,000.
(B) Outlays, $57,486,000,000.
Fiscal year 2004:
(A) New budget authority, $63,779,000,000.
(B) Outlays, $63,209,000,000.
Fiscal year 2005:
(A) New budget authority, $67,135,000,000.
(B) Outlays, $66,553,000,000.
Fiscal year 2006:
(A) New budget authority, $65,397,000,000.
(B) Outlays, $64,995,000,000.
Fiscal year 2007:
(A) New budget authority, $63,874,000,000.
(B) Outlays, $63,442,000,000.
Fiscal year 2008:
(A) New budget authority, $67,666,000,000.
(B) Outlays, $67,398,000,000.
Fiscal year 2009:
(A) New budget authority, $69,279,000,000.
(B) Outlays, $68,924,000,000.
Fiscal year 2010:
(A) New budget authority, $70,992,000,000.
(B) Outlays, $70,588,000,000.
Fiscal year 2011:
(A) New budget authority, $75,669,000,000.
(B) Outlays, $75,249,000,000.

Fiscal year 2012:
(A) New budget authority, $72,618,000,000.
(B) Outlays, $72,097,000,000.
Fiscal year 2013:
(A) New budget authority, $77,455,000,000.
(B) Outlays, $76,989,000,000.
(16) Administration of Justice (750):
Fiscal year 2003:
(A) New budget authority, $38,543,000,000.
(B) Outlays, $37,712,000,000.
Fiscal year 2004:
(A) New budget authority, $37,626,000,000.
(B) Outlays, $40,788,000,000.
Fiscal year 2005:
(A) New budget authority, $37,946,000,000.
(B) Outlays, $39,193,000,000.
Fiscal year 2006:
(A) New budget authority, $37,984,000,000.
(B) Outlays, $38,329,000,000.
Fiscal year 2007:
(A) New budget authority, $38,461,000,000.
(B) Outlays, $38,252,000,000.
Fiscal year 2008:
(A) New budget authority, $39,477,000,000.
(B) Outlays, $39,128,000,000.
Fiscal year 2009:
(A) New budget authority, $40,497,000,000.
(B) Outlays, $40,212,000,000.
Fiscal year 2010:
(A) New budget authority, $41,599,000,000.
(B) Outlays, $41,299,000,000.
Fiscal year 2011:
(A) New budget authority, $42,889,000,000.
(B) Outlays, $42,472,000,000.
Fiscal year 2012:
(A) New budget authority, $44,207,000,000.
(B) Outlays, $43,760,000,000.
Fiscal year 2013:
(A) New budget authority, $45,576,000,000.
(B) Outlays, $45,120,000,000.
(17) General Government (800):
Fiscal year 2003:
(A) New budget authority, $18,185,000,000.
(B) Outlays, $18,110,000,000.
Fiscal year 2004:
(A) New budget authority, $20,202,000,000.
(B) Outlays, $20,066,000,000.
Fiscal year 2005:
(A) New budget authority, $20,635,000,000.
(B) Outlays, $20,714,000,000.
Fiscal year 2006:
(A) New budget authority, $20,656,000,000.
(B) Outlays, $20,485,000,000.
Fiscal year 2007:
(A) New budget authority, $21,126,000,000.
(B) Outlays, $20,876,000,000.
Fiscal year 2008:
(A) New budget authority, $21,236,000,000.
(B) Outlays, $21,013,000,000.
Fiscal year 2009:
(A) New budget authority, $21,946,000,000.
(B) Outlays, $21,504,000,000.
Fiscal year 2010:
(A) New budget authority, $22,695,000,000.
(B) Outlays, $22,212,000,000.
Fiscal year 2011:
(A) New budget authority, $23,458,000,000.
(B) Outlays, $22,946,000,000.
Fiscal year 2012:
(A) New budget authority, $24,255,000,000.
(B) Outlays, $23,880,000,000.
Fiscal year 2013:
(A) New budget authority, $25,076,000,000.
(B) Outlays, $24,520,000,000.
(18) Net Interest (900):
Fiscal year 2003:
(A) New budget authority, $240,176,000,000.
(B) Outlays, $240,176,000,000.
Fiscal year 2004:
(A) New budget authority, $259,414,000,000.
(B) Outlays, $259,414,000,000.
Fiscal year 2005:
(A) New budget authority, $310,630,000,000.
(B) Outlays, $310,630,000,000.
Fiscal year 2006:
(A) New budget authority, $352,219,000,000.
(B) Outlays, $352,219,000,000.
Fiscal year 2007:
(A) New budget authority, $380,574,000,000.
(B) Outlays, $380,574,000,000.
Fiscal year 2008:
(A) New budget authority, $405,647,000,000.
(B) Outlays, $405,647,000,000.
Fiscal year 2009:
(A) New budget authority, $429,542,000,000.
(B) Outlays, $429,542,000,000.
Fiscal year 2010:
(A) New budget authority, $450,651,000,000.
(B) Outlays, $450,651,000,000.
Fiscal year 2011:
(A) New budget authority, $473,381,000,000.
(B) Outlays, $473,381,000,000.
Fiscal year 2012:
(A) New budget authority, $496,015,000,000.
(B) Outlays, $496,015,000,000.
Fiscal year 2013:
(A) New budget authority, $514,513,000,000.
(B) Outlays, $514,513,000,000.
(19) Allowances (920):
Fiscal year 2003:
(A) New budget authority, $74,758,000,000.
(B) Outlays, $38,279,000,000.
Fiscal year 2004:
(A) New budget authority, −$7,621,000,000.
(B) Outlays, $22,346,000,000.
Fiscal year 2005:
(A) New budget authority, −$6,541,000,000.
(B) Outlays, $1,520,000,000.
Fiscal year 2006:
(A) New budget authority, −$7,331,000,000.
(B) Outlays, −$5,930,000,000.
Fiscal year 2007:
(A) New budget authority, −$8,947,000,000.
(B) Outlays, −$8,796,000,000.
Fiscal year 2008:
(A) New budget authority, −$9,959,000,000.
(B) Outlays, −$9,951,000,000.
Fiscal year 2009:
(A) New budget authority, −$11,526,000,000.
(B) Outlays, −$9,978,000,000.
Fiscal year 2010:
(A) New budget authority, −$12,888,000,000.
(B) Outlays, −$10,880,000,000.
Fiscal year 2011:
(A) New budget authority, −$16,414,000,000.
(B) Outlays, −$12,671,000,000.
Fiscal year 2012:
(A) New budget authority, −$21,460,000,000.
(B) Outlays, −$15,707,000,000.
Fiscal year 2013:
(A) New budget authority, −$25,618,000,000.
(B) Outlays, −$19,181,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2003:
(A) New budget authority, −$41,104,000,000.
(B) Outlays, −$41,104,000,000.
Fiscal year 2004:
(A) New budget authority, −$42,894,000,000.
(B) Outlays, −$42,894,000,000.
Fiscal year 2005:
(A) New budget authority, −$52,598,000,000.
(B) Outlays, −$52,598,000,000.
Fiscal year 2006:
(A) New budget authority, −$54,459,000,000.
(B) Outlays, −$54,459,000,000.
Fiscal year 2007:
(A) New budget authority, −$49,035,000,000.
(B) Outlays, −$49,035,000,000.
Fiscal year 2008:
(A) New budget authority, −$51,221,000,000.
(B) Outlays, −$51,221,000,000.
Fiscal year 2009:
(A) New budget authority, −$52,785,000,000.
(B) Outlays, −$52,785,000,000.
Fiscal year 2010:
(A) New budget authority, −$54,856,000,000.
(B) Outlays, −$54,856,000,000.
Fiscal year 2011:
(A) New budget authority, −$57,007,000,000.
(B) Outlays, −$57,007,000,000.
Fiscal year 2012:
(A) New budget authority, −$61,585,000,000.
(B) Outlays, −$61,585,000,000.
Fiscal year 2013:
(A) New budget authority, −$63,783,000,000.
(B) Outlays, −$63,783,000,000.

## TITLE II—RECONCILIATION

### SEC. 201. RECONCILIATION FOR ECONOMIC GROWTH AND TAX SIMPLIFICATION AND FAIRNESS.

(a) IN THE HOUSE.—The House Committee on Ways and Means shall report a reconciliation bill not later than May 8, 2003, that consists of changes in laws within its jurisdiction sufficient to reduce revenues by not more than $535,000,000,000 for the period of fiscal years 2003 through 2013 and increase the total level of outlays by not more than $15,000,000,000 for the period of fiscal years 2003 through 2013.

(b) IN THE SENATE.—The Senate Committee on Finance shall report a reconciliation bill not later than May 8, 2003, that consists of changes in laws within its jurisdiction sufficient to reduce revenues by not more than $522,524,000,000 and increase the total level of outlays by not more than $27,476,000,000 for the period of fiscal years 2003 through 2013.

### SEC. 202. LIMIT ON SENATE CONSIDERATION OF RECONCILIATION.

(a) POINT OF ORDER.—It shall not be in order for the Senate to consider a bill reported pursuant to section 201, or an amendment thereto, which would cause the total revenue reduction to exceed $322,524,000,000 or the total outlay increase to exceed $27,476,000,000 for the period of fiscal years 2003 through 2013, except for the purpose of inserting the text of a Senate-passed measure and requesting a conference with the House of Representatives.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on the point of order raised under this section.

## TITLE III—SUBMISSIONS TO ELIMINATE WASTE, FRAUD, AND ABUSE

### SEC. 301. SUBMISSIONS OF FINDINGS PROVIDING FOR THE ELIMINATION OF WASTE, FRAUD, AND ABUSE IN MANDATORY PROGRAMS.

(a) FINDINGS AND PURPOSE.—The Congress finds that—

(1) the Inspector General of the Department of Education has found that nearly 23 percent of recipients whose loans were discharged due to disability claims were gainfully employed;

(2) based on data provided by the Office of Management and Budget, it is estimated that more than $8 billion in erroneous earned income tax payments are made each year;

(3) the Office of Management and Budget estimates that erroneous payments for food stamps account for almost 9 percent of total benefits;

(4) mismanagement of more than $3 billion in trust funds controlled by the Bureau of Indian Affairs led the Congress to take extraordinary measures to regain control of these funds;

(5) in its semiannual reports to Congress, the Inspector General of the Office of Personnel Management has documented numerous instances of the Government continuing to make electronic payments for retirement benefits through the Civil Service Retirement System after the death of the eligible annuitants; and

(6) numerous other examples of waste, fraud, and abuse are reported regularly by government watchdog agencies.

(b) SUBMISSIONS PROVIDING FOR THE ELIMINATION OF WASTE, FRAUD, AND ABUSE IN MANDATORY PROGRAMS.—Not later than September 2, 2003, the House committees named in subsection (c) and the Senate committees named in subsection (d) shall submit findings that identify changes in law within their jurisdictions that would achieve the specified level of savings through the elimination of waste, fraud, and abuse. After receiving those recommendations, the Committees on the Budget may use them in the development of future concurrent resolutions on the budget. For purposes of this subsection, the specified level of savings for each *committee shall be inserted in the Congressional Record by the chairmen of the Committee on the Budget by May 16, 2003.*

*(c) HOUSE COMMITTEES.—The following committees of the House of Representatives shall submit findings to the House Committee on the Budget pursuant to subsection (b): the Committee on Agriculture, the Committee on Armed Services, the Committee on Education and the Workforce, the Committee on Energy and Commerce, the Committee on Financial Services, the Committee on Government Reform, the Committee on House Administration, the Committee on International Relations, the Committee on the Judiciary, the Committee on Resources, the Committee on Science, the Committee on Small Business, the Committee on Transportation and Infrastructure, the Committee on Veterans' Affairs, and the Committee on Ways and Means.*

*(d) SENATE COMMITTEES.—The following committees of the Senate shall submit their findings to the Senate Committee on the Budget pursuant to subsection (b): the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee Banking, Housing, and Urban Affairs, the Committee Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on Health, Education, Labor, and Pensions, the Committee on the Judiciary, and the Committee on Veterans' Affairs.*

*(e) GAO REPORT.—By August 1, 2003, the Comptroller General shall submit to the Committees on the Budget a comprehensive report identifying instances in which the committees of jurisdiction may make legislative changes to improve the economy, efficiency, and effectiveness of programs within their jurisdiction.*

### *TITLE IV—RESERVE FUNDS AND CONTINGENCY PROCEDURE*

### *Subtitle A—Reserve Funds for Legislation Assumed in Budget Aggregates*

***SEC. 401. RESERVE FUND FOR MEDICARE MODERNIZATION AND PRESCRIPTION DRUGS.***

*(a) IN THE HOUSE.—(1) In the House, if the Committee on Ways and Means or the Committee on Energy and Commerce reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides a prescription drug benefit and modernizes medicare, and provides adjustments to the medicare program on a fee-for-service, capitated, or other basis, the chairman of the Committee on the Budget may revise the appropriate allocations described in paragraph (3) for such committees and other appropriate levels in this resolution by the amount provided by that measure for that purpose, but not to exceed $7,000,000,000 in new budget authority and $7,000,000,000 in outlays for fiscal year 2004 and $400,000,000,000 in new budget authority and $400,000,000,000 in outlays for the period of fiscal years 2004 through 2013.*

*(2) After the consideration of any measure for which an adjustment is made pursuant to paragraph (1), the chairman of the Committee on the Budget shall make any further appropriate adjustments in allocations and budget aggregates.*

*(3) In the House, there shall be a separate section 302(a) allocation to the appropriate committees for medicare. For purposes of enforcing such separate allocation under section 302(f) of the Congressional Budget Act of 1974, the ''first fiscal year'' and the ''total of fiscal years'' shall be deemed to refer to fiscal year 2004 and the total of fiscal years 2004 through 2013 included in the joint explanatory statement of managers accompanying this resolution, respectively. Such separate allocation shall be the exclusive allocation for medicare under section 302(a) of such Act.*

*(b) IN THE SENATE.—If the Committee on Finance of the Senate reports a bill or joint resolution, or an amendment is offered thereto or a conference report thereon is submitted, that strengthens and enhances the Medicare Program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and improves the access of beneficiaries under that program to prescription drugs or promotes geographic equity payments, the chairman of the Committee on the Budget, may revise appropriate budgetary aggregates and committee allocations of new budget authority and outlays provided by that measure for that purpose, but not to exceed $7,000,000,000 for fiscal year 2004 and $400,000,000,000 for the period of fiscal years 2004 through 2013.*

***SEC. 402. RESERVE FUND FOR MEDICAID REFORM.***

*If the Committee on Energy and Commerce of the House or the Committee on Finance of the Senate reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that modernizes medicaid, the appropriate chairman of the Committee on the Budget may revise appropriate budgetary aggregates and committee allocations of new budget authority and outlays provided by that measure for that purpose, but not to exceed $3,258,000,000 in new budget authority and outlays for fiscal year 2004, $8,944,000,000 in new budget authority and outlays for the period of fiscal years 2004 through 2008, and $12,782,000,000 in budget authority and outlays for the period of fiscal years 2004 through 2010, if the legislation would not increase the deficit over the period of fiscal years 2004 through 2013.*

***SEC. 403. RESERVE FUND FOR STATE CHILDREN'S HEALTH INSURANCE PROGRAM.***

*If the Committee on Energy and Commerce of the House or the Committee on Finance of the Senate reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that extends the availability of fiscal year 1998 and 1999 expired State Children's Health Insurance Program allotments and the expiring fiscal year 2000 allotments, the appropriate chairman of the Committee on the Budget may revise appropriate budgetary aggregates and committee allocations of new budget authority and outlays by the amount provided by that measure for that purpose, but not to exceed $1,260,000,000 in new budget authority and $85,000,000 in outlays for fiscal year 2003, $1,330,000,000 in new budget authority and $85,000,000 in outlays for fiscal year 2004, $690,000,000 in new budget authority and $760,000,000 in outlays for the period of fiscal years 2004 through 2008, and $565,000,000 in new budget authority and $890,000,000 in outlays for the period of fiscal years 2004 through 2013.*

***SEC. 404. RESERVE FUND FOR PROJECT BIOSHIELD.***

*(a) IN THE HOUSE.—In the House, if the appropriate committee of jurisdiction reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that establishes a program to accelerate the research, development, and purchase of biomedical threat countermeasures and—*

*(1) such measure provides new budget authority to carry out such program; or*

*(2) such measure authorizes discretionary new budget authority to carry out such program and the Committee on Appropriations reports a bill or joint resolution that provides new budget authority to carry out such program,*

*the chairman of the Committee on the Budget may revise the allocations for the committee providing such new budget authority, and other appropriate levels in this resolution, by the amount provided for that purpose, but, in the case of a measure described in paragraph (1), not to exceed $890,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom and $3,418,000,000 in new budget authority for the period of fiscal years 2004 through 2008 and outlays flowing therefrom or, in the case of a measure described in paragraph (2), not to exceed $890,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom. Notwithstanding the preceding sentence, the total such revision for fiscal year 2004 may not exceed $890,000,000 in new budget authority and outlays flowing therefrom.*

*(b) IN THE SENATE.—In the Senate, if the Committee on Health, Education, Labor, and Pensions reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides for the Department of Homeland Security to procure countermeasures necessary to protect the public health from current and emerging threats of chemical, biological, radiological, or nuclear agents for inclusion by the Secretary of Health and Human Services in the Strategic National Stockpile, the chairman of the Committee on the Budget may revise appropriate budgetary aggregates and committee allocations of new budget authority and outlays provided by that measure for that purpose, but not to exceed $890,000,000 in new budget authority and $575,000,000 in outlays for fiscal year 2004, and $5,593,000,000 in new budget authority and $5,593,000,000 in outlays for the period of fiscal years 2004 through 2013.*

***SEC. 405. RESERVE FUND FOR HEALTH INSURANCE FOR THE UNINSURED.***

*If the committee of jurisdiction in the House or the Committee on Finance of the Senate reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that provides health insurance for the uninsured (including a measure providing for tax deductions for the purchase of health insurance for, among others, moderate income individuals not receiving health insurance from their employers), the appropriate chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, and other appropriate aggregates by the amount provided by that measure for that purpose, but not to exceed $28,457,000,000 for the period of fiscal years 2004 through 2008 and $49,965,000,000 for the period of fiscal years 2004 through 2013.*

***SEC. 406. RESERVE FUND FOR CHILDREN WITH SPECIAL NEEDS.***

*If the Committee on Energy and Commerce of the House or the Committee on Finance of the Senate reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides States with the option to expand Medicaid coverage for children with special needs, allowing families of disabled children to purchase coverage under the Medicaid Program for such children, the appropriate chairman of the Committee on the Budget may revise committee allocations for that committee and other appropriate budgetary aggregates and allocations of new budget authority and outlays by the amount provided by that measure for that purpose, but not to exceed $43,000,000 in new budget authority and $42,000,000 in outlays for fiscal year 2004, $1,627,000,000 in new budget authority and $1,566,000,000 in outlays for the period of fiscal years 2004 through 2008, and $7,462,000,000 in new budget authority and $7,261,000,000 in outlays for the period of fiscal years 2004 through 2013.*

### *Subtitle B—Contingency Procedure*

***SEC. 411. CONTINGENCY PROCEDURE FOR SURFACE TRANSPORTATION.***

*(a) IN GENERAL.—If the Committee on Transportation and Infrastructure of the House or the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, or the Committee on Commerce, Science, and Transportation of the Senate reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority for the budget accounts or portions thereof in the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced*

*Budget and Emergency Deficit Control Act of 1985 in excess of the following amounts:*

*(1) for fiscal year 2004: $41,740,000,000,*

*(2) for fiscal year 2005: $42,743,000,000,*

*(3) for fiscal year 2006: $43,721,000,000,*

*(4) for fiscal year 2007: $45,795,000,000,*

*(5) for fiscal year 2008: $47,031,000,000, or*

*(6) for fiscal year 2009: $47,818,000,000,*

*the chairman of the appropriate Committee on the Budget may adjust the appropriate budget aggregates and increase the allocation of new budget authority to such committee for fiscal year 2004 and for the period of fiscal years 2004 through 2008 to the extent such excess is offset by a reduction in mandatory outlays from the Highway Trust Fund or an increase in receipts appropriated to such fund for the applicable fiscal year caused by such legislation or any previously enacted legislation. In the Senate, any increase in receipts must be reported from the Committee on Finance.*

*(b) ADJUSTMENT FOR OUTLAYS.—(1) For fiscal year 2004, in the House and in the Senate, if a bill or joint resolution is reported, or if an amendment thereto is offered or a conference report thereon is submitted, that changes obligation limitations such that the total limitations are in excess of $39,684,000,000 for fiscal year 2004, for programs, projects, and activities within the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 and if legislation has been enacted that satisfies the conditions set forth in subsection (a) for such fiscal year, the appropriate chairman of the Committee on the Budget may increase the allocation of outlays and appropriate aggregates for such fiscal year for the committee reporting such measure by the amount of outlays that corresponds to such excess obligation limitations, but not to exceed the amount of such excess that was offset pursuant to subsection (a).*

*(2) For fiscal year 2005, in the Senate, if a bill or joint resolution is reported, or if an amendment thereto is offered or a conference report thereon is submitted, that changes obligation limitations such that the total limitations are in excess of $40,788,000,000 for fiscal year 2005, for programs, projects, and activities within the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 and if legislation has been enacted that satisfies the conditions set forth in subsection (a) for such fiscal year, the chairman of the Committee on the Budget may increase the allocation of outlays and appropriate aggregates for such fiscal year for the committee reporting such measure by the amount of outlays that corresponds to such excess obligation limitations, but not to exceed the amount of such excess that was offset pursuant to subsection (a).*

*(c) STATEMENT OF INTENT.—It is the intent of Congress that the increase in new budget authority and outlays above the baseline assumed for highways and highway safety in section 103 of this resolution is derived from the resources available to the Highway Trust Fund.*

### *Subtitle C—Adjustments to Fiscal Year 2003 Levels*

#### *SEC. 421. SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2003.*

*If legislation making supplemental appropriations for fiscal year 2003 is enacted before May 1, 2003, the appropriate chairman of the Committee on the Budget shall make the appropriate adjustments in the appropriate allocations and aggregates of new budget authority and outlays to reflect the difference between such measure and the corresponding levels assumed in this resolution.*

### *TITLE V—BUDGET ENFORCEMENT*

#### *SEC. 501. RESTRICTIONS ON ADVANCE APPROPRIATIONS.*

*(a) IN THE HOUSE.—(1)(A) In the House, except as provided in paragraph (2), an advance appropriation may not be reported in a bill or joint resolution making a general appropriation or continuing appropriation, and may not be in order as an amendment thereto.*

*(B) Managers on the part of the House may not agree to a Senate amendment that would violate subparagraph (A) unless specific authority to agree to the amendment first is given by the House by a separate vote with respect thereto.*

*(2) In the House, an advance appropriation may be provided for fiscal year 2005 for programs, projects, activities or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading ''Accounts Identified for Advance Appropriations, Part A'' in an aggregate amount not to exceed $23,158,000,000 in new budget authority, and an advance appropriation may be provided for fiscal year 2006 for any program identified in such statement under the heading ''Accounts Identified for Advance Appropriations, Part B''.*

*(3) In this subsection, the term ''advance appropriation'' means any discretionary new budget authority in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2004 that first becomes available for any fiscal year after 2004.*

*(b) IN THE SENATE.—(1) Except as provided in paragraph (2), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would provide an advance appropriation.*

*(2) An advance appropriation may be provided for fiscal years 2005 and 2006 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading ''Accounts Identified for Advance Appropriations'' in an aggregate amount not to exceed $23,158,000,000 in new budget authority in each year.*

*(3)(A) In the Senate, paragraph (1) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).*

*(B) A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.*

*(C) If a point of order is sustained under paragraph (1) against a conference report in the Senate, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.*

*(4) In this subsection, the term ''advance appropriation'' means any discretionary new budget authority in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2004 that first becomes available for any fiscal year after 2004 or making general appropriations or continuing appropriations for fiscal year 2005 that first becomes available for any fiscal year after 2005.*

#### *SEC. 502. EMERGENCY LEGISLATION.*

*(a) PURPOSE.—It is the purpose of this section, in the absence of an extension of the discretionary spending limits and PAYGO requirements under the Balanced Budget and Emergency Deficit Control Act of 1985, to enable the Congress to designate provisions of legislation as an emergency in order to exempt such measures from enforcement of this resolution with respect to the new budget authority, outlays, and receipts resulting from such provisions.*

*(b) IN THE HOUSE.—*

*(1) EXEMPTION OF EMERGENCY PROVISIONS.—In the House, any new budget authority, new entitlement authority, outlays, and receipts resulting from any provision designated in that provision as an emergency requirement, pursuant to this section, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302, 303, 311, and 401 of the Congressional Budget Act of 1974.*

*(2) DESIGNATIONS.—*

*(A) GUIDANCE.—In the House, if a provision of legislation is designated as an emergency requirement under this section, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in subparagraph (B). If such legislation is to be considered by the House without being reported, then the committee shall cause the explanation to be published in the Congressional Record in advance of floor consideration.*

*(B) CRITERIA.—*

*(i) IN GENERAL.—Any such provision is an emergency requirement if the situation addressed by such provision is—*

*(I) necessary, essential, or vital (not merely useful or beneficial);*

*(II) sudden, quickly coming into being, and not building up over time;*

*(III) an urgent, pressing, and compelling need requiring immediate action;*

*(IV) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and*

*(V) not permanent, temporary in nature.*

*(ii) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.*

*(c) IN THE SENATE.—*

*(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that the President designates as an emergency requirement and that the Congress so designates in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this section.*

*(2) EXEMPTION OF EMERGENCY PROVISIONS.—In the Senate, any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this section, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302, 303, 311, and 401 of the Congressional Budget Act of 1974 and sections 504 (relating to discretionary spending limits in the Senate) and 505 (relating to the paygo requirement in the Senate) of this resolution.*

*(3) DESIGNATIONS.—*

*(A) GUIDANCE.—In the Senate, if a provision of legislation is designated as an emergency requirement under this section, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in subparagraph (B).*

*(B) CRITERIA.—*

*(i) IN GENERAL.—Any such provision is an emergency requirement if the situation addressed by such provision is—*

*(I) necessary, essential, or vital (not merely useful or beneficial);*

*(II) sudden, quickly coming into being, and not building up over time;*

*(III) an urgent, pressing, and compelling need requiring immediate action;*

*(IV) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and*

*(V) not permanent, temporary in nature.*

*(ii) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.*

*(4) DEFINITIONS.—In this subsection, the terms ''direct spending'', ''receipts'', and ''appropriations for discretionary accounts'' means any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.*

*(5) POINT OF ORDER.—When the Senate is considering a bill, resolution, amendment, motion,*

*or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.*

*(6) WAIVER AND APPEAL.—Paragraph (5) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.*

*(7) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of paragraph (5), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this section.*

*(8) FORM OF THE POINT OF ORDER.—A point of order under paragraph (5) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.*

*(9) CONFERENCE REPORTS.—If a point of order is sustained under paragraph (5) against a conference report, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.*

*(10) EXCEPTION FOR DEFENSE SPENDING.—Paragraph (5) shall not apply against an emergency designation for a provision making discretionary appropriations in the defense category.*

***SEC. 503. EXTENSION OF SUPERMAJORITY ENFORCEMENT.***

*(a) IN GENERAL.—Notwithstanding any provision of the Congressional Budget Act of 1974, subsections (c)(2) and (d)(3) of section 904 of the Congressional Budget Act of 1974 shall remain in effect for purposes of Senate enforcement through September 30, 2008.*

*(b) REPEAL.—Senate Resolution 304, agreed to October 16, 2002 (107th Congress), is repealed.*

***SEC. 504. DISCRETIONARY SPENDING LIMITS IN THE SENATE.***

*(a) DISCRETIONARY SPENDING LIMITS.—In the Senate and as used in this section, the term ''discretionary spending limit'' means—*

*(1) for fiscal year 2003—*

*(A) $839,118,000,000 in new budget authority and $805,146,000,000 in outlays for the discretionary category;*

*(B) for the highway category, $31,264,000,000 in outlays; and*

*(C) for the mass transit category, $1,436,000,000 in new budget authority, and $6,551,000,000 in outlays;*

*(2) for fiscal year 2004—*

*(A) $782,999,000,000 in new budget authority and $822,563,000,000 in outlays for the discretionary category;*

*(B) for the highway category, $31,555,000,000 in outlays; and*

*(C) for the mass transit category, $1,461,000,000 in new budget authority, and $6,634,000,000 in outlays; and*

*(3) for fiscal year 2005—*

*(A) $812,598,000,000 in new budget authority, and $817,883,000,000 in outlays for the discretionary category;*

*(B) for the highway category, $33,393,000,000 in outlays; and*

*(C) for the mass transit category $1,488,000,000 in new budget authority, and $6,726,000,000 in outlays;*

*as adjusted in conformance with subsection (c).*

*(b) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—*

*(1) IN GENERAL.—Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any bill or resolution (or amendment, motion, or conference report on that bill or resolution) that would exceed any of the discretionary spending limits in this section.*

*(2) WAIVER.—This subsection may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.*

*(3) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.*

*(c) ADJUSTMENTS.—*

*(1) IN GENERAL.—*

*(A) CHAIRMAN.—After the reporting of a bill or joint resolution, or the offering of an amendment thereto or the submission of a conference report thereon, the chairman of the Committee on the Budget may make the adjustments set forth in subparagraph (B) for the amount of new budget authority in that measure (if that measure meets the requirements set forth in paragraph (2)) and the outlays flowing from that budget authority.*

*(B) MATTERS TO BE ADJUSTED.—The adjustments referred to in subparagraph (A) are to be made to—*

*(i) the discretionary spending limits, if any, set forth in the appropriate concurrent resolution on the budget;*

*(ii) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a) of the Congressional Budget Act of 1974; and*

*(iii) the budgetary aggregates as set forth in the appropriate concurrent resolution on the budget.*

*(2) AMOUNTS OF ADJUSTMENTS.—The adjustment referred to in paragraph (1) shall be—*

*(A) an amount provided for transportation under section 411; and*

*(B) an amount provided for the fiscal year 2003 supplemental appropriation pursuant to section 421.*

*(3) REPORTING REVISED SUBALLOCATIONS.—Following any adjustment made under paragraph (1), the Committee on Appropriations of the Senate shall report appropriately revised suballocations under section 302(b) to carry out this subsection.*

***SEC. 505. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.***

*(a) POINT OF ORDER.—*

*(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any one of the three applicable time periods as measured in paragraphs (5) and (6).*

*(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term ''applicable time period'' means any 1 of the 3 following periods:*

*(A) The first year covered by the most recently adopted concurrent resolution on the budget.*

*(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.*

*(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.*

*(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term ''direct-spending legislation'' means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.*

*(4) EXCLUSION.—For purposes of this subsection, the terms ''direct-spending legislation'' and ''revenue legislation'' do not include—*

*(A) any concurrent resolution on the budget; or*

*(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.*

*(5) BASELINE.—Estimates prepared pursuant to this section shall—*

*(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget as adjusted for any changes in revenues or direct spending assumed by such resolution; and*

*(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.*

*(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.*

*(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.*

*(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.*

*(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.*

*(e) SUNSET.—This section shall expire on September 30, 2008.*

***SEC. 506. COMPLIANCE WITH SECTION 13301 OF THE BUDGET ENFORCEMENT ACT OF 1990.***

*(a) IN GENERAL.—In the House, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974 and section 13301 of the Budget Enforcement Act of 1990, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocation under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration.*

*(b) SPECIAL RULE.—In the House, except as provided by section 401(a), for purposes of applying section 302(f) of the Congressional Budget Act of 1974, estimates of the level of total new budget authority and total outlays provided by a measure shall include any discretionary amounts provided for the Social Security Administration.*

***SEC. 507. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.***

*(a) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—*

*(1) apply while that measure is under consideration;*

*(2) take effect upon the enactment of that measure; and*

*(3) be published in the Congressional Record as soon as practicable.*

*(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.*

*(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution—*

*(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the appropriate Committee on the Budget; and*

*(2) such chairman may make any other necessary adjustments to such levels to carry out this resolution.*

*(d) ENFORCEMENT IN THE HOUSE.—In the House, for the purpose of enforcing this concurrent resolution, sections 302(f) and 311(a) of the Congressional Budget Act of 1974 shall apply to fiscal year 2004 and the total for fiscal year 2004 and the four ensuing fiscal years.*

***SEC. 508. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.***

*In the House or in the Senate, upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the appropriate chairman of the Committee on the Budget shall make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002).*

***TITLE VI—SENSE OF THE SENATE***

***SEC. 601. SENSE OF THE SENATE ON FEDERAL EMPLOYEE PAY.***

*It is the sense of the Senate that rates of compensation for civilian employees of the United States should be adjusted at the same time, and in the same proportion, as are rates of compensation for members of the uniformed services.*

***SEC. 602. SENSE OF THE SENATE REGARDING PELL GRANTS.***

*It is the sense of the Senate that the levels in this resolution assume that within the discretionary allocation provided to the Committee on Appropriations the maximum Pell Grant award should be raised to the maximum extent practicable.*

***SEC. 603. SENSE OF THE SENATE ON EMERGENCY AND DISASTER ASSISTANCE FOR LIVESTOCK AND AGRICULTURE PRODUCERS.***

*It is the sense of the Senate that the Senate develop a long-term drought plan that effectively recognizes the recurring nature of drought cycles and adequately supports emergency and disaster assistance to livestock and agricultural producers hurt by drought and that the Senate establish an agricultural reserve to fund these activities.*

***SEC. 604. SOCIAL SECURITY RESTRUCTURING.***

*It is the sense of the Senate that—*

*(1) the President, the Congress and the American people (including seniors, workers, women, minorities, and disabled persons) should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system; and*

*(2) Social Security reform must—*

*(A) protect current and near retirees from any changes to Social Security benefits;*

*(B) reduce the pressure on future taxpayers and on other budgetary priorities;*

*(C) provide benefit levels that adequately reflect individual contributions to the Social Security System; and*

*(D) preserve and strengthen the safety net for vulnerable populations, including the disabled and survivors.*

***SEC. 605. SENSE OF THE SENATE CONCERNING STATE FISCAL RELIEF.***

*It is the Sense of the Senate that the functional totals in this resolution assume that any legislation enacted to provide economic growth for the United States should include not less than $30,000,000,000 for State fiscal relief over the next 18 months (of which at least half should be provided through a temporary increase in the Federal medical assistance percentage (FMAP)).*

***SEC. 606. FEDERAL AGENCY REVIEW COMMISSION.***

*It is the sense of the Senate that a commission should be established to review Federal domestic agencies, and programs within such agencies, with the express purpose of providing Congress with recommendations, and legislation to implement those recommendations, to realign or eliminate government agencies and programs that are duplicative, wasteful, inefficient, outdated, or irrelevant, or have failed to accomplish their intended purpose.*

***SEC. 607. SENSE OF THE SENATE REGARDING HIGHWAY SPENDING.***

*(a) FINDINGS.—The Senate makes the following findings:*

*(1) Highway construction funding should increase over current levels.*

*(2) The Senate Budget Committee-passed budget resolution increases highway funding above the President's request.*

*(3) All vehicles, whether they are operated by gasoline, gasohol, or electricity, do damage to our highways.*

*(4) As set out in TEA–21, the direct relationship between excise taxes and highway spending makes sense and should be maintained.*

*(5) Highways should be funded through user fees such as excise taxes and not through the General Fund of the Treasury.*

*(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should only consider legislation that increases highway spending if such legislation changes highway user fees to pay for such increased spending.*

***SEC. 608. SENSE OF THE SENATE ON REPORTS ON LIABILITIES AND FUTURE COSTS.***

*It is the sense of the Senate that the Congressional Budget Office shall consult with the Committee on the Budget of the Senate in order to prepare a report containing—*

*(1) an estimate of the unfunded liabilities of the Federal Government;*

*(2) an estimate of the contingent liabilities of Federal programs; and*

*(3) an accrual-based estimate of the current and future costs of Federal programs.*

***SEC. 609. SENSE OF THE SENATE CONCERNING AN EXPANSION IN HEALTH CARE COVERAGE.***

*It is the sense of the Senate that the functional totals in this resolution assume that—*

*(1) expanded access to health care coverage throughout the United States is a top priority for national policymaking; and*

*(2) to the extent that additional funds are made available, a significant portion of such funds should be dedicated to expanding access to health care coverage so that fewer individuals are uninsured and fewer individuals are likely to become uninsured.*

***SEC. 610. SENSE OF THE SENATE CONCERNING PROGRAMS OF THE CORPS OF ENGINEERS.***

*It is the sense of the Senate that the Corps of Engineers requires additional funding to perform its vital functions and the budgetary totals in this resolution assume that the level of funding provided for programs of the Corps will not be reduced below current baseline spending levels.*

***SEC. 611. SENSE OF THE SENATE CONCERNING NATIVE AMERICAN HEALTH.***

*It is the sense of the Senate that Congress has recognized the importance of Native American health. In 1997, Congress enacted a program to spend $30,000,000 a year on research and treatment on diabetes in the Native American community. This amount was increased to $100,000,000 a year in 2000 and further increased to $150,000,000 a year in 2002. This is a 500 percent increase since 1997. This priority focuses on prevention and treatment for a major disease in the Native American community.*

***SEC. 612. SENSE OF THE SENATE ON PROVIDING TAX AND OTHER INCENTIVES TO REVITALIZE RURAL AMERICA.***

*It is the sense of the Senate that if tax relief measures are enacted in accordance with the assumptions in the budget resolution in this session of Congress, such legislation should include incentives to help rural communities attract individuals to live and work and start and grow a business in those communities.*

***SEC. 613. SENSE OF THE SENATE CONCERNING CHILDREN'S GRADUATE MEDICAL EDUCATION.***

*It is the sense of the Senate that, for fiscal year 2004, children's graduate medical education should be funded at $305,000,000.*

***SEC. 614. SENSE OF THE SENATE ON FUNDING FOR CRIMINAL JUSTICE.***

*It is the sense of the Senate that the funding levels in this resolution assume that the programs authorized under the Crime Identification Technology Act of 1998 to improve the justice system will be fully funded at the levels authorized for each of the fiscal years 2004 through 2007.*

***SEC. 615. SENSE OF THE SENATE CONCERNING FUNDING FOR DRUG TREATMENT PROGRAMS.***

*It is the sense of the Senate that the functional totals in this resolution assume that up to $20,000,000 from funds designated, but not obligated, for travel and administrative expenses, from drug interdiction activities should be used for service-oriented targeted grants for the utilization of substances that block the craving for heroin and that are newly approved for such use by the Food and Drug Administration.*

***SEC. 616. SENSE OF SENATE CONCERNING FREE TRADE AGREEMENT WITH THE UNITED KINGDOM.***

*It is the sense of the Senate that the President should negotiate a free trade agreement with the United Kingdom.*

And the Senate agree to the same.

JIM NUSSLE,
CHRISTOPHER SHAYS,
*Managers on the Part of the House.*

DON NICKLES,
PETE V. DOMENICI,
CHUCK GRASSLEY,
JUDD GREGG,
*Managers on the Part of the Senate.*

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 95), establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 through 2005 through 2013, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all out of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DISPLAYS AND AMOUNTS

The contents of concurrent budget resolutions are set forth in section 301(a) of the Congressional Budget Act of 1974. The years in this document are fiscal years unless otherwise indicated.

*House Resolution*

The House budget resolution includes all of the items required as part of a concurrent budget resolution under section 301(a) of the

Congressional Budget Act other than the spending and revenue levels for Social Security (which is used to enforce a point of order applicable only in the Senate).

*Senate Amendment*

The Senate amendment includes all of the items required under section 301(a) of the Congressional Budget Act. As permitted under section 301(b) of the Congressional Budget Act, Section 101(6) of the Senate amendment includes advisory levels on debt held by the public.

*Conference Agreement*

The Conference Agreement includes all of the items required by section 301(a) of the Congressional Budget Act.

AGGREGATE AND FUNCTION LEVELS

The following tables are included in this section:

Conference Report on the Fiscal Year 2004 Budget Resolution: Total Spending and Revenues

Conference Report on the Fiscal Year 2004 Budget Resolution: Discretionary Spending

Conference Report on the Fiscal Year 2004 Budget Resolution: Mandatory Spending

House-Passed Fiscal Year 2004 Budget Resolution: Total Spending and Revenues

House-Passed Fiscal Year 2004 Budget Resolution: Discretionary Spending

House Passed Fiscal Year 2004 Budget Resolution: Mandatory Spending

Senate-Passed Fiscal Year 2004 Amendment: Aggregate and Function Levels

CONFERENCE REPORT ON THE FISCAL YEAR 2004 BUDGET RESOLUTION: TOTAL SPENDING AND REVENUES

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | SUMMARY | | | | | | | | |
| Total Spending: | | | | | | | | | | | | | |
| BA | 2,231.122 | 2,247.860 | 2,387.012 | 2,529.740 | 2,652.819 | 2,782.789 | 2,905.038 | 3,024.490 | 3,156.932 | 3,264.724 | 3,412.316 | 12,600.220 | 28,363.720 |
| OT | 2,181.910 | 2,268.230 | 2,375.351 | 2,493.643 | 2,607.179 | 2,737.405 | 2,866.279 | 2,992.306 | 3,133.830 | 3,229.310 | 3,386.854 | 12,481.808 | 28,090.387 |
| On-Budget: | | | | | | | | | | | | | |
| BA | 1,862.613 | 1,861.004 | 1,990.236 | 2,122.301 | 2,232.829 | 2,348.872 | 2,454.439 | 2,555.612 | 2,669.462 | 2,754.007 | 2,875.121 | 10,555.242 | 23,863.883 |
| OT | 1,815.395 | 1,883.834 | 1,981.402 | 2,089.299 | 2,190.576 | 2,307.259 | 2,419.846 | 2,527.898 | 2,651.220 | 2,723.935 | 2,855.491 | 10,452.370 | 23,630.760 |
| Off-Budget: | | | | | | | | | | | | | |
| BA | 368.509 | 386.856 | 396.776 | 407.439 | 419.990 | 433.917 | 450.599 | 468.878 | 487.470 | 510.717 | 537.195 | 2,044.978 | 4,499.837 |
| OT | 366.515 | 384.396 | 393.949 | 404.344 | 416.603 | 430.146 | 446.433 | 464.408 | 482.610 | 505.375 | 531.363 | 2,029.438 | 4,459.627 |
| Revenues | | | | | | | | | | | | | |
| Total | 1,834.718 | 1,883.273 | 2,081.650 | 2,276.573 | 2,441.399 | 2,586.273 | 2,772.894 | 2,923.691 | 3,062.692 | 3,239.140 | 3,423.675 | 11,269.168 | 26,691.260 |
| On-budget | 1,303.111 | 1,325.452 | 1,493.875 | 1,657.511 | 1,790.251 | 1,901.844 | 2,053.762 | 2,167.937 | 2,270.540 | 2,409.572 | 2,553.985 | 8,168.933 | 19,624.729 |
| Off-budget | 531.607 | 557.821 | 587.775 | 619.062 | 651.148 | 684.429 | 719.132 | 755.754 | 792.152 | 829.568 | 869.690 | 3,100.235 | 7,066.531 |
| Surplus/Deficit (−): | | | | | | | | | | | | | |
| Total | −347.192 | −384.957 | −293.701 | −217.070 | −165.780 | −151.132 | −93.385 | −68.615 | −71.138 | 9.830 | 36.821 | −1,212.640 | −1,399.127 |
| On-budget | −512.284 | −558.382 | −487.527 | −431.788 | −400.325 | −405.415 | −366.084 | −359.961 | −380.680 | −314.363 | −301.506 | −2,283.437 | −4,006.031 |
| Off-budget | 165.092 | 173.425 | 193.826 | 214.718 | 234.545 | 254.283 | 272.699 | 291.346 | 309.542 | 324.193 | 338.327 | 1,070.797 | 2,606.904 |
| Debt Held by the Public (end of year) | 3,917 | 4,299 | 4,599 | 4,829 | 5,007 | 5,169 | 5,272 | 5,349 | 5,428 | 5,424 | 5,394 | na | na |
| Debt Subject to Limit (end of year) | 6,747 | 7,384 | 7,978 | 8,534 | 9,064 | 9,602 | 10,102 | 10,601 | 11,125 | 11,588 | 12,040 | na | na |
| | | | | | BY FUNCTION | | | | | | | | |
| National Defense (050): | | | | | | | | | | | | | |
| BA | 392.494 | 400.546 | 420.071 | 440.185 | 460.435 | 480.886 | 491.951 | 502.301 | 511.859 | 520.553 | 529.428 | 2,202.123 | 4,758.215 |
| OT | 386.229 | 400.916 | 414.237 | 426.011 | 438.656 | 462.861 | 479.249 | 493.195 | 508.131 | 510.509 | 524.494 | 2,142.681 | 4,658.259 |
| International Affairs (150): | | | | | | | | | | | | | |
| BA | 22.506 | 25.681 | 29.734 | 32.308 | 33.603 | 34.611 | 35.413 | 36.258 | 37.136 | 38.005 | 38.885 | 155.937 | 341.634 |
| OT | 19.283 | 24.207 | 24.917 | 26.539 | 28.464 | 29.604 | 30.733 | 31.689 | 32.565 | 33.408 | 34.298 | 133.731 | 296.424 |
| General Science, Space, and Technology (250): | | | | | | | | | | | | | |
| BA | 23.153 | 23.927 | 24.433 | 25.217 | 26.055 | 26.832 | 27.462 | 28.121 | 28.805 | 29.492 | 30.185 | 126.464 | 270.529 |
| OT | 21.556 | 22.799 | 23.861 | 24.485 | 25.221 | 25.948 | 26.639 | 27.296 | 27.963 | 28.639 | 29.319 | 122.314 | 262.170 |
| Energy (270): | | | | | | | | | | | | | |
| BA | 2.074 | 2.634 | 2.797 | 2.714 | 2.540 | 3.080 | 3.090 | 3.194 | 3.296 | 3.408 | 3.520 | 13.765 | 30.273 |
| OT | 0.439 | 0.873 | 0.947 | 1.272 | 1.069 | 1.419 | 1.686 | 1.794 | 1.976 | 2.357 | 2.326 | 5.580 | 15.719 |
| Natural Resources and Environment (300): | | | | | | | | | | | | | |
| BA | 30.816 | 31.623 | 32.504 | 32.962 | 33.386 | 34.064 | 35.183 | 36.021 | 36.829 | 37.529 | 38.214 | 164.539 | 348.315 |
| OT | 28.940 | 30.782 | 31.654 | 32.830 | 33.127 | 33.527 | 34.544 | 35.360 | 36.163 | 36.836 | 37.600 | 161.920 | 342.423 |
| Agriculture (350): | | | | | | | | | | | | | |
| BA | 24.418 | 24.583 | 27.003 | 26.828 | 26.299 | 25.507 | 26.092 | 25.545 | 24.991 | 24.573 | 24.297 | 130.220 | 255.718 |
| OT | 23.365 | 23.656 | 25.763 | 25.593 | 25.107 | 24.381 | 25.128 | 24.716 | 24.180 | 23.778 | 23.498 | 124.500 | 245.800 |
| Commerce and Housing Credit (370): | | | | | | | | | | | | | |
| BA | 5.212 | 7.316 | 8.243 | 5.802 | 5.455 | 5.211 | 4.751 | 4.278 | 3.871 | 3.716 | 3.369 | 32.027 | 52.012 |
| OT | 2.281 | 3.374 | 3.550 | 0.638 | −0.520 | −1.289 | −1.756 | −2.591 | −3.581 | −4.131 | −4.438 | 5.753 | −10.744 |
| On-budget: | | | | | | | | | | | | | |
| BA | 8.812 | 7.516 | 8.743 | 8.280 | 8.626 | 8.743 | 8.526 | 8.407 | 8.386 | 8.489 | 8.563 | 41.908 | 84.279 |
| OT | 5.881 | 3.574 | 4.050 | 3.116 | 2.651 | 2.243 | 2.019 | 1.538 | 0.934 | 0.642 | 0.756 | 15.634 | 21.523 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −3.600 | −0.200 | −0.500 | −2.478 | −3.171 | −3.532 | −3.775 | −4.129 | −4.515 | −4.773 | −5.194 | −9.881 | −32.267 |
| OT | −3.600 | −0.200 | −0.500 | −2.478 | −3.171 | −3.532 | −3.775 | −4.129 | −4.515 | −4.773 | −5.194 | −9.881 | −32.267 |
| Transportation (400): | | | | | | | | | | | | | |
| BA | 64.091 | 69.506 | 70.489 | 72.496 | 75.278 | 76.927 | 78.878 | 77.747 | 78.624 | 79.527 | 80.466 | 364.696 | 759.938 |
| OT | 67.847 | 69.869 | 69.442 | 70.191 | 71.786 | 73.659 | 75.632 | 77.233 | 78.291 | 79.317 | 80.346 | 354.947 | 745.766 |
| Community and Regional Development (450): | | | | | | | | | | | | | |
| BA | 12.251 | 14.063 | 14.138 | 14.321 | 14.536 | 14.745 | 14.980 | 15.233 | 15.492 | 15.755 | 16.023 | 71.803 | 149.286 |
| OT | 15.994 | 15.823 | 15.872 | 14.961 | 14.664 | 14.123 | 14.298 | 14.501 | 14.750 | 14.992 | 15.259 | 75.443 | 149.243 |
| Education, Training, Employment and Social Services (500): | | | | | | | | | | | | | |
| BA | 82.699 | 90.035 | 91.442 | 93.428 | 95.569 | 97.925 | 99.813 | 101.551 | 103.529 | 105.790 | 107.265 | 468.399 | 986.347 |
| OT | 81.455 | 84.205 | 87.020 | 90.541 | 92.986 | 95.118 | 97.440 | 99.289 | 101.117 | 102.985 | 104.934 | 449.870 | 955.635 |
| Health (550): | | | | | | | | | | | | | |
| BA | 222.913 | 240.554 | 259.701 | 279.236 | 299.614 | 322.061 | 345.548 | 370.626 | 396.818 | 415.790 | 445.484 | 1,401.166 | 3,375.432 |
| OT | 217.881 | 238.785 | 259.403 | 279.024 | 298.681 | 320.731 | 344.059 | 369.097 | 395.280 | 414.384 | 444.082 | 1,396.624 | 3,363.526 |
| Medicare (570): | | | | | | | | | | | | | |
| BA | 248.586 | 266.018 | 282.682 | 321.623 | 343.717 | 369.244 | 395.368 | 423.288 | 453.285 | 485.951 | 526.553 | 1,583.284 | 3,867.729 |
| OT | 248.434 | 266.283 | 285.630 | 318.384 | 343.987 | 369.119 | 395.107 | 423.546 | 456.642 | 482.125 | 526.809 | 1,583.403 | 3,867.632 |
| Income Security (600): | | | | | | | | | | | | | |
| BA | 326.390 | 319.518 | 333.821 | 341.816 | 349.199 | 361.697 | 373.372 | 384.844 | 400.266 | 403.738 | 418.672 | 1,706.051 | 3,686.943 |
| OT | 334.177 | 324.840 | 337.123 | 344.292 | 350.945 | 362.808 | 374.083 | 385.347 | 400.688 | 404.146 | 419.245 | 1,720.008 | 3,703.517 |
| Social Security (650): | | | | | | | | | | | | | |
| BA | 478.882 | 501.140 | 521.499 | 546.735 | 575.008 | 606.071 | 641.105 | 679.322 | 720.505 | 766.154 | 816.195 | 2,750.453 | 6,373.734 |
| OT | 476.888 | 498.679 | 518.672 | 543.640 | 571.621 | 602.300 | 636.939 | 674.852 | 715.645 | 760.812 | 810.363 | 2,734.912 | 6,333.523 |
| On-budget: | | | | | | | | | | | | | |
| BA | 13.255 | 14.294 | 15.471 | 16.421 | 17.919 | 19.704 | 21.810 | 24.283 | 28.170 | 31.357 | 34.347 | 83.809 | 223.776 |
| OT | 13.255 | 14.293 | 15.471 | 16.421 | 17.919 | 19.704 | 21.810 | 24.283 | 28.170 | 31.357 | 34.347 | 83.808 | 223.775 |
| Off-budget: | | | | | | | | | | | | | |
| BA | 465.627 | 486.846 | 506.028 | 530.314 | 557.089 | 586.367 | 619.295 | 655.039 | 692.335 | 734.797 | 781.848 | 2,666.644 | 6,149.958 |
| OT | 463.633 | 484.386 | 503.201 | 527.219 | 553.702 | 582.596 | 615.129 | 650.569 | 687.475 | 729.455 | 776.016 | 2,651.104 | 6,109.748 |
| Veterans Benefits and Services (700): | | | | | | | | | | | | | |
| BA | 57.597 | 63.779 | 67.135 | 65.397 | 63.874 | 67.666 | 69.279 | 70.992 | 75.669 | 72.618 | 77.455 | 327.851 | 693.864 |
| OT | 57.486 | 63.209 | 66.553 | 64.995 | 63.442 | 67.398 | 68.924 | 70.588 | 75.249 | 72.097 | 76.989 | 325.597 | 689.444 |
| Administration of Justice (750): | | | | | | | | | | | | | |
| BA | 38.543 | 37.626 | 37.946 | 37.984 | 38.461 | 39.477 | 40.497 | 41.599 | 42.889 | 44.207 | 45.576 | 191.494 | 406.262 |
| OT | 37.712 | 40.788 | 39.193 | 38.329 | 38.252 | 39.128 | 40.212 | 41.299 | 42.472 | 43.760 | 45.120 | 195.690 | 408.553 |
| General Government (800): | | | | | | | | | | | | | |
| BA | 18.185 | 20.202 | 20.635 | 20.656 | 21.126 | 21.236 | 21.946 | 22.695 | 23.458 | 24.255 | 25.076 | 103.855 | 221.285 |
| OT | 18.110 | 20.066 | 20.714 | 20.485 | 20.876 | 21.013 | 21.504 | 22.212 | 22.946 | 23.880 | 24.520 | 103.154 | 218.216 |
| Net Interest (900): | | | | | | | | | | | | | |
| BA | 156.067 | 169.656 | 212.681 | 243.313 | 258.818 | 269.793 | 278.541 | 283.448 | 288.931 | 293.336 | 292.764 | 1,154.261 | 2,591.281 |
| OT | 156.067 | 169.656 | 212.681 | 243.313 | 258.818 | 269.793 | 278.541 | 283.448 | 288.931 | 293.336 | 292.764 | 1,154.261 | 2,591.281 |
| On-budget: | | | | | | | | | | | | | |
| BA | 240.176 | 259.414 | 310.630 | 352.219 | 380.574 | 405.647 | 429.542 | 450.651 | 473.381 | 496.015 | 514.513 | 1,708.484 | 4,072.586 |
| OT | 240.176 | 259.414 | 310.630 | 352.219 | 380.574 | 405.647 | 429.542 | 450.651 | 473.381 | 496.015 | 514.513 | 1,708.484 | 4,072.586 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −84.109 | −89.758 | −97.949 | −108.906 | −121.756 | −135.854 | −151.001 | −167.203 | −184.450 | −202.679 | −221.749 | −554.223 | −1,481.305 |

CONFERENCE REPORT ON THE FISCAL YEAR 2004 BUDGET RESOLUTION: TOTAL SPENDING AND REVENUES—Continued

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| OT | −84.109 | −89.758 | −97.949 | −108.906 | −121.756 | −135.854 | −151.001 | −167.203 | −184.450 | −202.679 | −221.749 | −554.223 | −1,481.305 |
| Allowances (920): | | | | | | | | | | | | | |
| BA | 74.758 | −7.621 | −6.541 | −7.331 | −8.947 | −9.959 | −11.526 | −12.888 | −16.414 | −21.460 | −25.618 | −40.399 | −128.305 |
| OT | 38.279 | 22.346 | 1.520 | −5.930 | −8.796 | −9.951 | −9.978 | −10.880 | −12.671 | −15.707 | −19.181 | −0.811 | −69.228 |
| Undistributed Offsetting Receipts (950): | | | | | | | | | | | | | |
| BA | −50.513 | −52.926 | −63.401 | −65.950 | −61.207 | −64.285 | −66.705 | −69.685 | −72.907 | −78.213 | −81.493 | −307.769 | −676.772 |
| OT | −50.513 | −52.926 | −63.401 | −65.950 | −61.207 | −64.285 | −66.705 | −69.685 | −72.907 | −78.213 | −81.493 | −307.769 | −676.772 |
| On-budget: | | | | | | | | | | | | | |
| BA | −41.104 | −42.894 | −52.598 | −54.459 | −49.035 | −51.221 | −52.785 | −54.856 | −57.007 | −61.585 | −63.783 | −250.207 | −540.223 |
| OT | −41.104 | −42.894 | −52.598 | −54.459 | −49.035 | −51.221 | −52.785 | −54.856 | −57.007 | −61.585 | −63.783 | −250.207 | −540.223 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −9.409 | −10.032 | −10.803 | −11.491 | −12.172 | −13.064 | −13.920 | −14.829 | −15.900 | −16.628 | −17.710 | −57.562 | −136.549 |
| OT | −9.409 | −10.032 | −10.803 | −11.491 | −12.172 | −13.064 | −13.920 | −14.829 | −15.900 | −16.628 | −17.710 | −57.562 | −136.549 |

CONFERENCE REPORT ON THE FISCAL YEAR 2004 BUDGET RESOLUTION: DISCRETIONARY SPENDING

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| SUMMARY | | | | | | | | | | | | | |
| Total Spending: | | | | | | | | | | | | | |
| BA | 840.554 | 784.460 | 814.086 | 842.470 | 872.461 | 903.983 | 924.775 | 944.195 | 962.135 | 978.491 | 995.126 | 4,217.460 | 9,022.182 |
| OT | 842.961 | 860.752 | 858.003 | 870.434 | 892.160 | 926.475 | 955.305 | 980.114 | 1,004.818 | 1,016.239 | 1,038.931 | 4,407.824 | 9,403.231 |
| Defense: | | | | | | | | | | | | | |
| BA | 392.137 | 400.058 | 419.437 | 439.507 | 459.729 | 480.129 | 491.172 | 501.487 | 511.015 | 519.702 | 528.537 | 2,198.860 | 4,750.773 |
| OT | 386.373 | 400.561 | 413.682 | 425.379 | 437.995 | 462.157 | 478.522 | 492.435 | 507.345 | 509.721 | 523.668 | 2,139.774 | 4,651.465 |
| Nondefense: | | | | | | | | | | | | | |
| BA | 448.417 | 384.402 | 394.649 | 402.963 | 412.732 | 423.854 | 433.603 | 442.708 | 451.120 | 458.789 | 466.589 | 2,018.600 | 4,271.409 |
| OT | 456.588 | 460.191 | 444.321 | 445.055 | 454.165 | 464.318 | 476.783 | 487.679 | 497.473 | 506.518 | 515.263 | 2,268.050 | 4,751.766 |
| BY FUNCTION | | | | | | | | | | | | | |
| National Defense (050): | | | | | | | | | | | | | |
| BA | 392.137 | 400.058 | 419.437 | 439.507 | 459.729 | 480.129 | 491.172 | 501.487 | 511.015 | 519.702 | 528.537 | 2,198.860 | 4,750.773 |
| OT | 386.373 | 400.561 | 413.682 | 425.379 | 437.995 | 462.157 | 478.522 | 492.435 | 507.345 | 509.721 | 523.668 | 2,139.774 | 4,651.465 |
| International Affairs (150): | | | | | | | | | | | | | |
| BA | 25.407 | 28.651 | 30.034 | 31.579 | 32.854 | 33.845 | 34.630 | 35.459 | 36.322 | 37.176 | 38.037 | 156.963 | 338.587 |
| OT | 26.000 | 26.775 | 27.522 | 29.195 | 31.084 | 32.119 | 33.225 | 34.179 | 35.072 | 35.935 | 36.778 | 146.695 | 321.884 |
| General Science, Space, and Technology (250): | | | | | | | | | | | | | |
| BA | 23.047 | 23.897 | 24.402 | 25.186 | 26.023 | 26.799 | 27.429 | 28.087 | 28.770 | 29.456 | 30.149 | 126.307 | 270.198 |
| OT | 21.457 | 22.701 | 23.766 | 24.421 | 25.176 | 25.915 | 26.607 | 27.263 | 27.929 | 28.605 | 29.284 | 121.979 | 261.667 |
| Energy (270): | | | | | | | | | | | | | |
| BA | 3.237 | 3.672 | 3.975 | 3.914 | 3.902 | 4.858 | 4.975 | 5.096 | 5.227 | 5.357 | 5.489 | 20.321 | 46.465 |
| OT | 3.151 | 3.577 | 3.869 | 3.971 | 3.901 | 4.647 | 4.911 | 5.031 | 5.157 | 5.286 | 5.415 | 19.965 | 45.765 |
| Natural Resources and Environment (300): | | | | | | | | | | | | | |
| BA | 29.238 | 29.327 | 29.802 | 30.097 | 30.583 | 31.319 | 31.998 | 32.705 | 33.448 | 34.196 | 34.970 | 151.128 | 318.445 |
| OT | 27.857 | 29.014 | 29.554 | 29.983 | 30.464 | 30.965 | 31.542 | 32.199 | 32.899 | 33.595 | 34.342 | 149.980 | 314.557 |
| Agriculture (350): | | | | | | | | | | | | | |
| BA | 5.727 | 5.243 | 5.609 | 5.734 | 5.876 | 6.037 | 6.208 | 6.386 | 6.575 | 6.767 | 6.962 | 28.499 | 61.397 |
| OT | 5.852 | 5.589 | 5.533 | 5.613 | 5.758 | 5.958 | 6.128 | 6.303 | 6.487 | 6.679 | 6.871 | 28.451 | 60.919 |
| Commerce and Housing Credit (370): | | | | | | | | | | | | | |
| BA | 0.150 | −0.496 | −0.269 | −0.554 | 0.534 | 0.878 | 0.767 | 0.661 | 0.534 | 0.625 | 0.574 | 0.093 | 3.254 |
| OT | 0.054 | 0.092 | −0.393 | −0.650 | 0.449 | 0.686 | 0.633 | 0.549 | 0.414 | 0.502 | 0.450 | 0.184 | 2.732 |
| On-budget: | | | | | | | | | | | | | |
| BA | 0.150 | −0.496 | −0.269 | −0.554 | 0.534 | 0.878 | 0.767 | 0.661 | 0.534 | 0.625 | 0.574 | 0.093 | 3.254 |
| OT | 0.054 | 0.092 | −0.393 | −0.650 | 0.449 | 0.686 | 0.633 | 0.549 | 0.414 | 0.502 | 0.450 | 0.184 | 2.732 |
| Off-budget: | | | | | | | | | | | | | |
| BA | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | ...................... | ...................... |
| OT | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | ...................... | ...................... |
| Transportation (400): | | | | | | | | | | | | | |
| BA | 22.611 | 23.205 | 23.134 | 24.192 | 24.882 | 25.276 | 26.393 | 26.221 | 27.040 | 27.875 | 28.739 | 120.689 | 256.957 |
| OT | 65.184 | 67.608 | 67.257 | 68.142 | 69.802 | 71.732 | 73.676 | 75.266 | 76.289 | 77.269 | 78.245 | 344.541 | 725.286 |
| Community and Regional Development (450): | | | | | | | | | | | | | |
| BA | 11.725 | 13.826 | 13.999 | 14.188 | 14.401 | 14.688 | 14.921 | 15.168 | 15.425 | 15.686 | 15.950 | 71.102 | 148.252 |
| OT | 16.054 | 15.912 | 15.992 | 15.124 | 14.884 | 14.390 | 14.602 | 14.835 | 15.079 | 15.313 | 15.569 | 76.302 | 151.700 |
| Education, Training, Employment and Social Services (500): | | | | | | | | | | | | | |
| BA | 72.875 | 80.507 | 81.005 | 82.245 | 84.023 | 86.086 | 87.707 | 89.283 | 90.924 | 92.938 | 94.086 | 413.866 | 868.804 |
| OT | 71.958 | 75.206 | 77.152 | 80.039 | 82.172 | 83.975 | 86.043 | 87.652 | 89.250 | 90.886 | 92.523 | 398.544 | 844.898 |
| Health (550): | | | | | | | | | | | | | |
| BA | 49.468 | 49.620 | 50.667 | 51.800 | 52.950 | 54.299 | 55.607 | 56.972 | 58.387 | 59.806 | 61.246 | 259.336 | 551.354 |
| OT | 44.349 | 47.742 | 49.376 | 50.414 | 51.631 | 52.576 | 53.801 | 55.102 | 56.460 | 57.851 | 59.252 | 251.739 | 534.205 |
| Medicare (570): | | | | | | | | | | | | | |
| BA | 3.798 | 3.739 | 3.807 | 3.906 | 4.014 | 4.138 | 4.353 | 4.572 | 4.809 | 5.089 | 5.396 | 19.604 | 43.823 |
| OT | 3.797 | 3.726 | 3.811 | 3.897 | 3.992 | 4.113 | 4.309 | 4.524 | 4.757 | 5.027 | 5.327 | 19.539 | 43.483 |
| Income Security (600): | | | | | | | | | | | | | |
| BA | 44.020 | 45.712 | 48.760 | 50.311 | 52.004 | 53.714 | 55.441 | 57.295 | 59.143 | 61.023 | 62.884 | 250.501 | 546.287 |
| OT | 50.781 | 51.544 | 52.373 | 53.424 | 54.643 | 56.116 | 57.505 | 58.954 | 60.560 | 62.215 | 63.908 | 268.100 | 571.242 |
| Social Security (650): | | | | | | | | | | | | | |
| BA | 3.833 | 4.282 | 4.363 | 4.450 | 4.549 | 4.665 | 4.820 | 4.983 | 5.151 | 5.323 | 5.503 | 22.309 | 48.089 |
| OT | 3.859 | 4.231 | 4.326 | 4.435 | 4.532 | 4.644 | 4.794 | 4.953 | 5.121 | 5.291 | 5.471 | 22.168 | 47.798 |
| On-budget: | | | | | | | | | | | | | |
| BA | 0.021 | 0.025 | 0.025 | 0.026 | 0.027 | 0.027 | 0.028 | 0.029 | 0.030 | 0.031 | 0.032 | 0.130 | 0.280 |
| OT | 0.021 | 0.024 | 0.025 | 0.026 | 0.027 | 0.027 | 0.028 | 0.029 | 0.030 | 0.031 | 0.032 | 0.129 | 0.279 |
| Off-budget: | | | | | | | | | | | | | |
| BA | 3.812 | 4.257 | 4.338 | 4.424 | 4.522 | 4.638 | 4.792 | 4.954 | 5.121 | 5.292 | 5.471 | 22.179 | 47.809 |
| OT | 3.838 | 4.207 | 4.301 | 4.409 | 4.505 | 4.617 | 4.766 | 4.924 | 5.091 | 5.260 | 5.439 | 22.039 | 47.519 |
| Veterans Benefits and Services (700): | | | | | | | | | | | | | |
| BA | 26.532 | 29.957 | 28.386 | 28.812 | 29.272 | 29.838 | 30.796 | 31.789 | 32.824 | 33.887 | 35.000 | 146.265 | 310.561 |
| OT | 26.902 | 29.600 | 28.183 | 28.495 | 29.024 | 29.662 | 30.530 | 31.497 | 32.521 | 33.576 | 34.663 | 144.964 | 307.751 |
| Administration of Justice (750): | | | | | | | | | | | | | |
| BA | 36.289 | 33.529 | 35.762 | 36.664 | 37.621 | 38.694 | 39.771 | 40.931 | 42.288 | 43.674 | 45.117 | 182.270 | 394.051 |
| OT | 35.484 | 37.495 | 36.611 | 36.824 | 37.483 | 38.455 | 39.596 | 40.741 | 41.977 | 43.331 | 44.764 | 186.868 | 397.277 |
| General Government (800): | | | | | | | | | | | | | |
| BA | 15.702 | 17.352 | 17.754 | 17.770 | 18.191 | 18.679 | 19.313 | 19.988 | 20.667 | 21.371 | 22.105 | 89.746 | 193.190 |
| OT | 15.570 | 17.033 | 17.869 | 17.658 | 17.966 | 18.316 | 18.859 | 19.511 | 20.172 | 20.864 | 21.582 | 88.842 | 189.830 |
| Allowances (920): | | | | | | | | | | | | | |
| BA | 74.758 | −7.621 | −6.541 | −7.331 | −8.947 | −9.959 | −11.526 | −12.888 | −16.414 | −21.460 | −25.618 | −40.399 | −128.305 |
| OT | 38.279 | 22.346 | 1.520 | −5.930 | −8.796 | −9.951 | −9.978 | −10.880 | −12.671 | −15.707 | −19.181 | −0.811 | −69.228 |

CONFERENCE REPORT ON THE FISCAL YEAR 2004 BUDGET RESOLUTION: MANDATORY SPENDING

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| SUMMARY | | | | | | | | | | | | | |
| Total Spending: | | | | | | | | | | | | | |
| BA | 1,390.568 | 1,463.400 | 1,572.926 | 1,687.270 | 1,780.358 | 1,878.806 | 1,980.263 | 2,080.295 | 2,194.797 | 2,286.233 | 2,417.190 | 8,382.760 | 19,341.538 |

CONFERENCE REPORT ON THE FISCAL YEAR 2004 BUDGET RESOLUTION: MANDATORY SPENDING—Continued

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| OT | 1,338.949 | 1,407.478 | 1,517.348 | 1,623.209 | 1,715.019 | 1,810.930 | 1,910.974 | 2,012.192 | 2,129.012 | 2,213.071 | 2,347.923 | 8,073.984 | 18,687.156 |
| On-budget: | | | | | | | | | | | | | |
| BA | 1,025.871 | 1,080.801 | 1,180.488 | 1,284.255 | 1,364.890 | 1,449.527 | 1,534.456 | 1,616.371 | 1,712.448 | 1,780.808 | 1,885.466 | 6,359.961 | 14,889.510 |
| OT | 976.272 | 1,027.289 | 1,127.700 | 1,223.274 | 1,302.921 | 1,385.401 | 1,469.307 | 1,552.708 | 1,651.493 | 1,712.956 | 1,821.999 | 6,066.585 | 14,275.048 |
| Off-budget: | | | | | | | | | | | | | |
| BA | 364.697 | 382.599 | 392.438 | 403.015 | 415.468 | 429.279 | 445.807 | 463.924 | 482.349 | 505.425 | 531.724 | 2,022.799 | 4,452.028 |
| OT | 362.677 | 380.189 | 389.648 | 399.935 | 412.098 | 425.529 | 441.667 | 459.484 | 477.519 | 500.115 | 525.924 | 2,007.399 | 4,412.108 |
| BY FUNCTION | | | | | | | | | | | | | |
| National Defense (050): | | | | | | | | | | | | | |
| BA | 0.357 | 0.488 | 0.634 | 0.678 | 0.706 | 0.757 | 0.779 | 0.814 | 0.844 | 0.851 | 0.891 | 3.263 | 7.442 |
| OT | −0.144 | 0.355 | 0.555 | 0.632 | 0.661 | 0.704 | 0.727 | 0.760 | 0.786 | 0.788 | 0.826 | 2.907 | 6.794 |
| International Affairs (150): | | | | | | | | | | | | | |
| BA | −2.901 | −2.970 | −0.300 | 0.729 | 0.749 | 0.766 | 0.783 | 0.799 | 0.814 | 0.829 | 0.848 | −1.026 | 3.047 |
| OT | −6.717 | −2.568 | −2.605 | −2.656 | −2.620 | −2.515 | −2.492 | −2.490 | −2.507 | −2.527 | −2.480 | −12.964 | −25.460 |
| General Science, Space, and Technology (250): | | | | | | | | | | | | | |
| BA | 0.106 | 0.030 | 0.031 | 0.031 | 0.032 | 0.033 | 0.033 | 0.034 | 0.035 | 0.036 | 0.036 | 0.157 | 0.331 |
| OT | 0.099 | 0.098 | 0.095 | 0.064 | 0.045 | 0.033 | 0.032 | 0.033 | 0.034 | 0.034 | 0.035 | 0.335 | 0.503 |
| Energy (270): | | | | | | | | | | | | | |
| BA | −1.163 | −1.038 | −1.178 | −1.200 | −1.362 | −1.778 | −1.885 | −1.902 | −1.931 | −1.949 | −1.969 | −6.556 | −16.192 |
| OT | −2.712 | −2.704 | −2.922 | −2.699 | −2.832 | −3.228 | −3.225 | −3.237 | −3.181 | −2.929 | −3.089 | −14.385 | −30.046 |
| Natural Resources and Environment (300): | | | | | | | | | | | | | |
| BA | 1.578 | 2.296 | 2.702 | 2.865 | 2.803 | 2.745 | 3.185 | 3.316 | 3.381 | 3.333 | 3.244 | 13.411 | 29.870 |
| OT | 1.083 | 1.768 | 2.100 | 2.847 | 2.663 | 2.562 | 3.002 | 3.161 | 3.264 | 3.241 | 3.258 | 11.940 | 27.866 |
| Agriculture (350): | | | | | | | | | | | | | |
| BA | 18.691 | 19.340 | 21.394 | 21.094 | 20.423 | 19.470 | 19.884 | 19.159 | 18.416 | 17.806 | 17.335 | 101.721 | 194.321 |
| OT | 17.513 | 18.067 | 20.230 | 19.980 | 19.349 | 18.423 | 19.000 | 18.413 | 17.693 | 17.099 | 16.627 | 96.049 | 184.881 |
| Commerce and Housing Credit (370): | | | | | | | | | | | | | |
| BA | 5.062 | 7.812 | 8.512 | 6.356 | 4.921 | 4.333 | 3.984 | 3.617 | 3.337 | 3.091 | 2.795 | 31.934 | 48.758 |
| OT | 2.227 | 3.282 | 3.943 | 1.288 | −0.969 | −1.975 | −2.389 | −3.140 | −3.995 | −4.633 | −4.888 | 5.569 | −13.476 |
| On-budget: | | | | | | | | | | | | | |
| BA | 8.662 | 8.012 | 9.012 | 8.834 | 8.092 | 7.865 | 7.759 | 7.746 | 7.852 | 7.864 | 7.989 | 41.815 | 81.025 |
| OT | 5.827 | 3.482 | 4.443 | 3.766 | 2.202 | 1.557 | 1.386 | 0.989 | 0.520 | 0.140 | 0.306 | 15.450 | 18.791 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −3.600 | −0.200 | −0.500 | −2.478 | −3.171 | −3.532 | −3.775 | −4.129 | −4.515 | −4.773 | −5.194 | −9.881 | −32.267 |
| OT | −3.600 | −0.200 | −0.500 | −2.478 | −3.171 | −3.532 | −3.775 | −4.129 | −4.515 | −4.773 | −5.194 | −9.881 | −32.267 |
| Transportation (400): | | | | | | | | | | | | | |
| BA | 41.480 | 46.301 | 47.355 | 48.304 | 50.396 | 51.651 | 52.485 | 51.526 | 51.584 | 51.652 | 51.727 | 244.007 | 502.981 |
| OT | 2.663 | 2.261 | 2.185 | 2.049 | 1.984 | 1.927 | 1.956 | 1.967 | 2.002 | 2.048 | 2.101 | 10.406 | 20.480 |
| Community and Regional Development (450) | | | | | | | | | | | | | |
| BA | 0.526 | 0.237 | 0.139 | 0.133 | 0.135 | 0.057 | 0.059 | 0.065 | 0.067 | 0.069 | 0.073 | 0.701 | 1.034 |
| OT | −0.060 | −0.089 | −0.120 | −0.163 | −0.220 | −0.267 | −0.304 | −0.334 | −0.329 | −0.321 | −0.310 | −0.859 | −2.457 |
| Education, Training, Employment and Social Services (500): | | | | | | | | | | | | | |
| BA | 9.824 | 9.528 | 10.437 | 11.183 | 11.546 | 11.839 | 12.106 | 12.268 | 12.605 | 12.852 | 13.179 | 54.533 | 117.543 |
| OT | 9.497 | 8.999 | 9.868 | 10.502 | 10.814 | 11.143 | 11.397 | 11.637 | 11.867 | 12.099 | 12.411 | 51.326 | 110.737 |
| Health (550): | | | | | | | | | | | | | |
| BA | 173.445 | 190.934 | 209.034 | 227.436 | 246.664 | 267.762 | 289.941 | 313.654 | 338.431 | 355.984 | 384.238 | 1,141.830 | 2,824.078 |
| OT | 173.532 | 191.043 | 210.027 | 228.610 | 247.050 | 268.155 | 290.258 | 313.995 | 338.820 | 356.533 | 384.830 | 1,144.885 | 2,829.321 |
| Medicare (570): | | | | | | | | | | | | | |
| BA | 244.788 | 262.279 | 278.875 | 317.717 | 339.703 | 365.106 | 391.015 | 418.716 | 448.476 | 480.862 | 521.157 | 1,563.680 | 3,823.906 |
| OT | 244.637 | 262.557 | 281.819 | 314.487 | 339.995 | 365.006 | 390.798 | 419.022 | 451.885 | 477.098 | 521.482 | 1,563.864 | 3,824.149 |
| Income Security (600): | | | | | | | | | | | | | |
| BA | 282.370 | 273.806 | 285.061 | 291.505 | 297.195 | 307.983 | 317.931 | 327.549 | 341.123 | 342.715 | 355.788 | 1,455.550 | 3,140.656 |
| OT | 283.396 | 273.296 | 284.750 | 290.868 | 296.302 | 306.692 | 316.578 | 326.393 | 340.128 | 341.931 | 355.337 | 1,451.908 | 3,132.275 |
| Social Security (650): | | | | | | | | | | | | | |
| BA | 475.049 | 496.858 | 517.136 | 542.285 | 570.459 | 601.406 | 636.285 | 674.339 | 715.354 | 760.831 | 810.692 | 2,728.144 | 6,325.645 |
| OT | 473.029 | 494.448 | 514.346 | 539.205 | 567.089 | 597.656 | 632.145 | 669.899 | 710.524 | 755.521 | 804.892 | 2,712.744 | 6,285.725 |
| On-budget: | | | | | | | | | | | | | |
| BA | 13.234 | 14.269 | 15.446 | 16.395 | 17.892 | 19.677 | 21.782 | 24.254 | 28.140 | 31.326 | 34.315 | 83.679 | 223.496 |
| OT | 13.234 | 14.269 | 15.446 | 16.395 | 17.892 | 19.677 | 21.782 | 24.254 | 28.140 | 31.326 | 34.315 | 83.679 | 223.496 |
| Off-budget: | | | | | | | | | | | | | |
| BA | 461.815 | 482.589 | 501.690 | 525.890 | 552.567 | 581.729 | 614.503 | 650.085 | 687.214 | 729.505 | 776.377 | 2,644.465 | 6,102.149 |
| OT | 459.795 | 480.179 | 498.900 | 522.810 | 549.197 | 577.979 | 610.363 | 645.645 | 682.384 | 724.195 | 770.577 | 2,629.065 | 6,062.229 |
| Veterans Benefits and Services (700): | | | | | | | | | | | | | |
| BA | 31.065 | 33.822 | 38.749 | 36.585 | 34.602 | 37.828 | 38.483 | 39.203 | 42.845 | 38.731 | 42.455 | 181.586 | 383.303 |
| OT | 30.584 | 33.609 | 38.370 | 36.500 | 34.418 | 37.736 | 38.394 | 39.091 | 42.728 | 38.521 | 42.326 | 180.633 | 381.693 |
| Administration of Justice (750): | | | | | | | | | | | | | |
| BA | 2.254 | 4.097 | 2.184 | 1.320 | 0.840 | 0.783 | 0.726 | 0.668 | 0.601 | 0.533 | 0.459 | 9.224 | 12.211 |
| OT | 2.228 | 3.293 | 2.582 | 1.505 | 0.769 | 0.673 | 0.616 | 0.558 | 0.495 | 0.429 | 0.356 | 8.822 | 11.276 |
| General Government (800): | | | | | | | | | | | | | |
| BA | 2.483 | 2.850 | 2.881 | 2.886 | 2.935 | 2.557 | 2.633 | 2.707 | 2.791 | 2.884 | 2.971 | 14.109 | 28.095 |
| OT | 2.540 | 3.033 | 2.845 | 2.827 | 2.910 | 2.697 | 2.645 | 2.701 | 2.774 | 3.016 | 2.938 | 14.312 | 28.386 |
| Net Interest (900): | | | | | | | | | | | | | |
| BA | 156.067 | 169.656 | 212.681 | 243.313 | 258.818 | 269.793 | 278.541 | 283.448 | 288.931 | 293.336 | 292.764 | 1,154.261 | 2,591.281 |
| OT | 156.067 | 169.656 | 212.681 | 243.313 | 258.818 | 269.793 | 278.541 | 283.448 | 288.931 | 293.336 | 292.764 | 1,154.261 | 2,591.281 |
| On-budget: | | | | | | | | | | | | | |
| BA | 240.176 | 259.414 | 310.630 | 352.219 | 380.574 | 405.647 | 429.542 | 450.651 | 473.381 | 496.015 | 514.513 | 1,708.484 | 4,072.586 |
| OT | 240.176 | 259.414 | 310.630 | 352.219 | 380.574 | 405.647 | 429.542 | 450.651 | 473.381 | 496.015 | 514.513 | 1,708.484 | 4,072.586 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −84.109 | −89.758 | −97.949 | −108.906 | −121.756 | −135.854 | −151.001 | −167.203 | −184.450 | −202.679 | −221.749 | −554.223 | −1,481.305 |
| OT | −84.109 | −89.758 | −97.949 | −108.906 | −121.756 | −135.854 | −151.001 | −167.203 | −184.450 | −202.679 | −221.749 | −554.223 | −1,481.305 |
| Allowances (920): | | | | | | | | | | | | | |
| BA | .............. | .............. | .............. | .............. | .............. | .............. | .............. | .............. | .............. | .............. | .............. | .................. | .................. |
| OT | .............. | .............. | .............. | .............. | .............. | .............. | .............. | .............. | .............. | .............. | .............. | .................. | .................. |
| Undistributed Offsetting Receipts (950): | | | | | | | | | | | | | |
| BA | −50.513 | −52.926 | −63.401 | −65.950 | −61.207 | −64.285 | −66.705 | −69.685 | −72.907 | −78.213 | −81.493 | −307.769 | −676.772 |
| OT | −50.513 | −52.926 | −63.401 | −65.950 | −61.207 | −64.285 | −66.705 | −69.685 | −72.907 | −78.213 | −81.493 | −307.769 | −676.772 |
| On-budget: | | | | | | | | | | | | | |
| BA | −41.104 | −42.894 | −52.598 | −54.459 | −49.035 | −51.221 | −52.785 | −54.856 | −57.007 | −61.585 | −63.783 | −250.207 | −540.223 |
| OT | −41.104 | −42.894 | −52.598 | −54.459 | −49.035 | −51.221 | −52.785 | −54.856 | −57.007 | −61.585 | −63.783 | −250.207 | −540.223 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −9.409 | −10.032 | −10.803 | −11.491 | −12.172 | −13.064 | −13.920 | −14.829 | −15.900 | −16.628 | −17.710 | −57.562 | −136.549 |
| OT | −9.409 | −10.032 | −10.803 | −11.491 | −12.172 | −13.064 | −13.920 | −14.829 | −15.900 | −16.628 | −17.710 | −57.562 | −136.549 |

HOUSE-PASSED FISCAL YEAR 2004 BUDGET RESOLUTION: TOTAL SPENDING AND REVENUES

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| SUMMARY | | | | | | | | | | | | | |
| Total Spending: | | | | | | | | | | | | | |
| BA | 2,158.555 | 2,225.395 | 2,349.552 | 2,483.786 | 2,597.355 | 2,716.161 | 2,834.044 | 2,950.169 | 3,084.734 | 3,215.178 | 3,369.698 | 12,372.249 | 27,826.072 |
| OT | 2,143.410 | 2,232.365 | 2,337.286 | 2,450.075 | 2,555.757 | 2,674.646 | 2,797.065 | 2,916.177 | 3,057.083 | 3,172.626 | 3,335.342 | 12,250.129 | 27,528.422 |
| On-Budget: | | | | | | | | | | | | | |
| BA | 1,790.046 | 1,838.519 | 1,952.639 | 2,076.319 | 2,177.306 | 2,282.248 | 2,383.491 | 2,481.237 | 2,597.191 | 2,704.406 | 2,832.479 | 10,327.031 | 23,325.835 |
| OT | 1,776.895 | 1,847.887 | 1,943.164 | 2,045.680 | 2,139.077 | 2,244.487 | 2,350.662 | 2,451.698 | 2,574.381 | 2,667.177 | 2,803.936 | 10,220.295 | 23,068.149 |
| Off-Budget: | | | | | | | | | | | | | |
| BA | 368.509 | 386.876 | 396.913 | 407.467 | 420.049 | 433.913 | 450.553 | 468.932 | 487.543 | 510.772 | 537.219 | 2,045.218 | 4,500.237 |
| OT | 366.515 | 384.478 | 394.122 | 404.395 | 416.680 | 430.159 | 446.403 | 464.479 | 482.702 | 505.449 | 531.406 | 2,029.834 | 4,460.273 |

HOUSE-PASSED FISCAL YEAR 2004 BUDGET RESOLUTION: TOTAL SPENDING AND REVENUES—Continued

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Revenues: | | | | | | | | | | | | | |
| Total | 1,855.336 | 1,908.024 | 2,107.162 | 2,281.891 | 2,444.370 | 2,587.249 | 2,736.597 | 2,886.701 | 3,028.028 | 3,194.074 | 3,372.405 | 11,328.696 | 26,546.501 |
| On-budget | 1,323.729 | 1,350.138 | 1,519.267 | 1,662.729 | 1,793.142 | 1,902.740 | 2,017.385 | 2,130.867 | 2,235.796 | 2,364.426 | 2,502.635 | 8,228.016 | 19,479.125 |
| Off-budget | 531.607 | 557.886 | 587.895 | 619.162 | 651.228 | 684.509 | 719.212 | 755.834 | 792.232 | 829.648 | 869.770 | 3,100.680 | 7,067.376 |
| Surplus/Deficit (−): | | | | | | | | | | | | | |
| Total | −288.074 | −324.341 | −230.124 | −168.184 | −111.387 | −87.397 | −60.468 | −29.476 | −29.055 | 21.448 | 37.063 | −921.433 | −981.921 |
| On-budget | −453.166 | −497.749 | −423.897 | −382.951 | −345.935 | −341.747 | −333.277 | −320.831 | −338.585 | −302.751 | −301.301 | −1,992.279 | −3,589.024 |
| Off-budget | 165.092 | 173.408 | 193.773 | 214.767 | 234.548 | 254.350 | 272.809 | 291.355 | 309.530 | 324.199 | 338.364 | 1,070.846 | 2,607.103 |
| Debt Held by the Public (end of year) | 3,858 | 4,179 | 4,416 | 4,597 | 4,720 | 4,819 | 4,889 | 4,926 | 4,963 | 4,949 | 4,918 | na | na |
| Debt Subject to Limit (end of year) | 6,687 | 7,264 | 7,794 | 8,302 | 8,777 | 9,251 | 9,719 | 10,179 | 10,660 | 11,112 | 11,564 | na | na |
| | | | | | BY FUNCTION | | | | | | | | |
| National Defense (050): | | | | | | | | | | | | | |
| BA | 392.494 | 400.546 | 420.071 | 440.185 | 460.435 | 480.886 | 494.067 | 507.840 | 522.103 | 536.531 | 551.323 | 2,202.123 | 4,813.987 |
| OT | 386.229 | 400.916 | 414.237 | 426.011 | 438.656 | 462.861 | 480.650 | 497.348 | 516.338 | 523.884 | 543.541 | 2,142.681 | 4,704.442 |
| International Affairs (150): | | | | | | | | | | | | | |
| BA | 22.506 | 24.750 | 28.631 | 31.090 | 32.271 | 33.120 | 33.775 | 34.466 | 35.315 | 36.148 | 37.006 | 149.862 | 326.572 |
| OT | 19.283 | 23.654 | 24.090 | 25.557 | 27.344 | 28.303 | 29.284 | 30.078 | 30.916 | 31.716 | 32.576 | 128.948 | 283.518 |
| General Science, Space, and Technology (250): | | | | | | | | | | | | | |
| BA | 23.153 | 22.771 | 23.591 | 24.344 | 25.153 | 25.899 | 26.504 | 27.140 | 27.800 | 28.464 | 29.134 | 121.758 | 260.800 |
| OT | 21.556 | 22.348 | 23.082 | 23.690 | 24.425 | 25.127 | 25.799 | 26.435 | 27.079 | 27.735 | 28.393 | 118.672 | 254.113 |
| Energy (270): | | | | | | | | | | | | | |
| BA | 2.074 | 2.583 | 2.707 | 2.609 | 2.431 | 2.988 | 2.977 | 3.085 | 3.181 | 3.288 | 3.401 | 13.318 | 29.250 |
| OT | 0.439 | 0.928 | 0.961 | 1.244 | 1.022 | 1.400 | 1.660 | 1.781 | 1.955 | 2.316 | 2.293 | 5.555 | 15.560 |
| Natural Resources and Environment (300): | | | | | | | | | | | | | |
| BA | 30.816 | 29.240 | 30.253 | 30.945 | 31.453 | 32.230 | 33.463 | 34.432 | 35.438 | 36.354 | 37.251 | 154.121 | 331.059 |
| OT | 28.940 | 29.868 | 30.276 | 31.203 | 31.335 | 31.713 | 32.843 | 33.768 | 34.752 | 35.626 | 36.600 | 154.395 | 327.984 |
| Agriculture (350): | | | | | | | | | | | | | |
| BA | 24.418 | 24.192 | 26.481 | 26.197 | 25.567 | 24.607 | 24.998 | 24.293 | 23.781 | 23.390 | 23.155 | 127.044 | 246.661 |
| OT | 23.365 | 23.363 | 25.205 | 25.000 | 24.430 | 23.543 | 24.091 | 23.526 | 23.030 | 22.654 | 22.413 | 121.541 | 237.255 |
| Commerce and Housing Credit (370): | | | | | | | | | | | | | |
| BA | 5.212 | 7.205 | 8.137 | 5.673 | 6.000 | 5.103 | 4.999 | 4.621 | 4.437 | 4.269 | 4.065 | 32.118 | 54.509 |
| OT | 2.281 | 3.294 | 3.457 | 0.487 | −0.068 | −1.562 | −1.793 | −2.584 | −3.374 | −3.945 | −4.138 | 5.608 | −10.226 |
| On-budget: | | | | | | | | | | | | | |
| BA | 8.812 | 7.405 | 8.637 | 8.151 | 9.171 | 8.635 | 8.774 | 8.750 | 8.952 | 9.042 | 9.259 | 41.999 | 86.776 |
| OT | 5.881 | 3.494 | 3.957 | 2.965 | 3.103 | 1.970 | 1.982 | 1.545 | 1.141 | 0.828 | 1.056 | 15.489 | 22.041 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −3.600 | −0.200 | −0.500 | −2.478 | −3.171 | −3.532 | −3.775 | −4.129 | −4.515 | −4.773 | −5.194 | −9.881 | −32.267 |
| OT | −3.600 | −0.200 | −0.500 | −2.478 | −3.171 | −3.532 | −3.775 | −4.129 | −4.515 | −4.773 | −5.194 | −9.881 | −32.267 |
| Transportation (400): | | | | | | | | | | | | | |
| BA | 64.091 | 65.430 | 65.806 | 66.718 | 67.726 | 68.692 | 69.881 | 71.084 | 72.789 | 74.498 | 76.283 | 334.372 | 698.907 |
| OT | 67.847 | 69.225 | 66.917 | 66.538 | 67.264 | 68.297 | 69.552 | 70.915 | 72.410 | 74.004 | 75.640 | 338.241 | 700.762 |
| Community and Regional Development (450): | | | | | | | | | | | | | |
| BA | 12.251 | 14.137 | 14.356 | 14.647 | 14.968 | 15.351 | 15.702 | 16.076 | 16.468 | 16.858 | 17.256 | 73.459 | 155.819 |
| OT | 15.994 | 15.923 | 15.991 | 15.119 | 14.918 | 14.500 | 14.803 | 15.146 | 15.524 | 15.892 | 16.288 | 76.451 | 154.104 |
| Education, Training, Employment and Social Services (500): | | | | | | | | | | | | | |
| BA | 86.169 | 84.748 | 84.381 | 86.670 | 88.650 | 90.811 | 92.393 | 93.935 | 95.832 | 97.635 | 99.536 | 435.260 | 914.591 |
| OT | 81.340 | 85.706 | 83.598 | 84.639 | 86.417 | 88.355 | 90.486 | 92.170 | 93.936 | 95.713 | 97.602 | 428.715 | 898.622 |
| Health (550): | | | | | | | | | | | | | |
| BA | 221.878 | 235.103 | 248.663 | 265.462 | 284.237 | 303.780 | 324.153 | 345.696 | 370.681 | 395.391 | 423.754 | 1,337.245 | 3,196.920 |
| OT | 218.021 | 235.479 | 248.358 | 264.949 | 283.363 | 302.637 | 322.870 | 344.412 | 369.399 | 394.133 | 422.447 | 1,334.786 | 3,188.047 |
| Medicare (570): | | | | | | | | | | | | | |
| BA | 248.586 | 266.538 | 282.932 | 322.237 | 344.656 | 370.545 | 396.931 | 424.989 | 452.618 | 489.873 | 528.586 | 1,586.908 | 3,879.905 |
| OT | 248.434 | 266.865 | 285.912 | 319.017 | 344.943 | 370.436 | 396.685 | 425.263 | 455.994 | 486.064 | 528.861 | 1,587.173 | 3,880.040 |
| Income Security (600): | | | | | | | | | | | | | |
| BA | 326.588 | 315.485 | 325.921 | 331.772 | 336.386 | 344.748 | 352.988 | 360.370 | 374.372 | 377.623 | 391.496 | 1,654.312 | 3,511.161 |
| OT | 334.373 | 321.120 | 329.359 | 334.216 | 338.308 | 345.993 | 353.901 | 361.147 | 375.115 | 378.358 | 392.351 | 1,668.996 | 3,529.868 |
| Social Security (650): | | | | | | | | | | | | | |
| BA | 478.882 | 501.089 | 521.493 | 546.791 | 575.122 | 606.191 | 641.237 | 679.459 | 720.651 | 766.311 | 816.362 | 2,750.686 | 6,374.706 |
| OT | 476.888 | 498.690 | 518.702 | 543.719 | 571.753 | 602.437 | 637.087 | 675.006 | 715.810 | 760.988 | 810.549 | 2,735.301 | 6,334.741 |
| On-budget: | | | | | | | | | | | | | |
| BA | 13.255 | 14.223 | 15.330 | 16.451 | 17.975 | 19.827 | 21.982 | 24.357 | 28.235 | 31.450 | 34.481 | 83.806 | 224.311 |
| OT | 13.255 | 14.222 | 15.330 | 16.451 | 17.975 | 19.827 | 21.982 | 24.357 | 28.235 | 31.450 | 34.481 | 83.805 | 224.310 |
| Off-budget: | | | | | | | | | | | | | |
| BA | 465.627 | 486.866 | 506.163 | 530.340 | 557.147 | 586.364 | 619.255 | 655.102 | 692.416 | 734.861 | 781.881 | 2,666.880 | 6,150.395 |
| OT | 463.633 | 484.468 | 503.372 | 527.268 | 553.778 | 582.610 | 615.105 | 650.649 | 687.575 | 729.538 | 776.068 | 2,651.496 | 6,110.431 |
| Veterans Benefits and Services (700): | | | | | | | | | | | | | |
| BA | 57.597 | 61.567 | 65.847 | 64.000 | 62.348 | 65.696 | 66.939 | 68.222 | 72.714 | 69.867 | 74.518 | 319.458 | 671.718 |
| OT | 57.486 | 61.119 | 65.632 | 63.830 | 62.074 | 65.557 | 66.695 | 67.938 | 72.418 | 69.477 | 74.198 | 318.212 | 668.938 |
| Administration of Justice (750): | | | | | | | | | | | | | |
| BA | 38.543 | 37.313 | 37.676 | 37.586 | 37.966 | 38.884 | 39.846 | 40.891 | 42.160 | 43.459 | 44.808 | 189.425 | 400.589 |
| OT | 37.712 | 40.898 | 39.007 | 38.030 | 37.862 | 38.639 | 39.669 | 40.703 | 41.855 | 43.131 | 44.471 | 194.436 | 404.265 |
| General Government (800): | | | | | | | | | | | | | |
| BA | 18.178 | 19.779 | 20.038 | 19.672 | 19.976 | 19.789 | 20.208 | 20.620 | 21.342 | 22.090 | 22.881 | 99.254 | 206.395 |
| OT | 18.103 | 19.597 | 20.226 | 19.731 | 19.737 | 19.584 | 19.800 | 20.175 | 20.874 | 21.751 | 22.374 | 98.875 | 203.849 |
| Net Interest (900): | | | | | | | | | | | | | |
| BA | 155.632 | 166.912 | 205.969 | 233.138 | 245.717 | 253.445 | 259.512 | 262.464 | 265.793 | 268.782 | 267.822 | 1,105.181 | 2,429.554 |
| OT | 155.632 | 166.912 | 205.969 | 233.138 | 245.717 | 253.445 | 259.512 | 262.464 | 265.793 | 268.782 | 267.822 | 1,105.181 | 2,429.554 |
| On-budget: | | | | | | | | | | | | | |
| BA | 239.741 | 256.670 | 303.916 | 342.042 | 367.472 | 389.300 | 410.519 | 429.676 | 450.251 | 471.470 | 489.580 | 1,659.400 | 3,910.896 |
| OT | 239.741 | 256.670 | 303.916 | 342.042 | 367.472 | 389.300 | 410.519 | 429.676 | 450.251 | 471.470 | 489.580 | 1,659.400 | 3,910.896 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −84.109 | −89.758 | −97.947 | −108.904 | −121.755 | −135.855 | −151.007 | −167.212 | −184.458 | −202.688 | −221.758 | −554.219 | −1,481.342 |
| OT | −84.109 | −89.758 | −97.947 | −108.904 | −121.755 | −135.855 | −151.007 | −167.212 | −184.458 | −202.688 | −221.758 | −554.219 | −1,481.342 |
| Allowances (920): | | | | | | | | | | | | | |
| BA | .................. | −1.067 | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | −1.067 | −1.067 |
| OT | .................. | −0.614 | −0.292 | −0.093 | −0.036 | −0.015 | .................. | .................. | .................. | .................. | .................. | −1.050 | −1.050 |
| Undistributed Offsetting Receipts (950): | | | | | | | | | | | | | |
| BA | −50.513 | −52.926 | −63.401 | −65.950 | −63.707 | −66.604 | −66.529 | −69.514 | −72.741 | −75.653 | −78.939 | −312.588 | −675.964 |
| OT | −50.513 | −52.926 | −63.401 | −65.950 | −63.707 | −66.604 | −66.529 | −69.514 | −72.741 | −75.653 | −78.939 | −312.588 | −675.964 |
| On-budget: | | | | | | | | | | | | | |
| BA | −41.104 | −42.894 | −52.598 | −54.459 | −51.535 | −53.540 | −52.609 | −54.685 | −56.841 | −59.025 | −61.229 | −255.026 | −539.415 |
| OT | −41.104 | −42.894 | −52.598 | −54.459 | −51.535 | −53.540 | −52.609 | −54.685 | −56.841 | −59.025 | −61.229 | −255.026 | −539.415 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −9.409 | −10.032 | −10.803 | −11.491 | −12.172 | −13.064 | −13.920 | −14.829 | −15.900 | −16.628 | −17.710 | −57.562 | −136.549 |
| OT | −9.409 | −10.032 | −10.803 | −11.491 | −12.172 | −13.064 | −13.920 | −14.829 | −15.900 | −16.628 | −17.710 | −57.562 | −136.549 |

HOUSE-PASSED FISCAL YEAR 2004 BUDGET RESOLUTION: DISCRETIONARY SPENDING

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | SUMMARY | | | | | | | | |
| Total Spending: | | | | | | | | | | | | | |
| BA | 765.796 | 775.386 | 802.587 | 830.682 | 860.381 | 891.601 | 915.318 | 939.877 | 965.492 | 991.479 | 1,018.043 | 4,160.637 | 8,990.846 |
| OT | 804.682 | 831.265 | 841.708 | 857.651 | 878.630 | 911.456 | 940.851 | 968.691 | 999.228 | 1,018.712 | 1,050.542 | 4,320.710 | 9,298.734 |
| Defense | | | | | | | | | | | | | |
| BA | 392.137 | 400.058 | 419.437 | 439.507 | 459.729 | 480.129 | 493.288 | 507.026 | 521.259 | 535.680 | 550.432 | 2,198.860 | 4,806.545 |
| OT | 386.373 | 400.561 | 413.682 | 425.379 | 437.995 | 462.157 | 479.923 | 496.588 | 515.552 | 523.096 | 542.715 | 2,139.774 | 4,697.648 |

HOUSE-PASSED FISCAL YEAR 2004 BUDGET RESOLUTION: DISCRETIONARY SPENDING—Continued

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Nondefense | | | | | | | | | | | | | |
| BA | 373.659 | 375.328 | 383.150 | 391.175 | 400.652 | 411.472 | 422.030 | 432.851 | 444.233 | 455.799 | 467.611 | 1,961.777 | 4,184.301 |
| OT | 418.309 | 430.704 | 428.026 | 432.272 | 440.635 | 449.299 | 460.928 | 472.103 | 483.676 | 495.616 | 507.827 | 2,180.936 | 4,601.086 |
| BY FUNCTION | | | | | | | | | | | | | |
| National Defense (050): | | | | | | | | | | | | | |
| BA | 392.137 | 400.058 | 419.437 | 439.507 | 459.729 | 480.129 | 493.288 | 507.026 | 521.259 | 535.680 | 550.432 | 2,198.860 | 4,806.545 |
| OT | 386.373 | 400.561 | 413.682 | 425.379 | 437.995 | 462.157 | 479.923 | 496.588 | 515.552 | 523.096 | 542.715 | 2,139.774 | 4,697.648 |
| International Affairs (150): | | | | | | | | | | | | | |
| BA | 25.407 | 27.843 | 29.122 | 30.620 | 31.842 | 32.791 | 33.546 | 34.351 | 35.187 | 36.016 | 36.851 | 152.218 | 328.169 |
| OT | 26.000 | 26.376 | 26.888 | 28.455 | 30.266 | 31.234 | 32.310 | 33.233 | 34.097 | 34.935 | 35.754 | 143.219 | 313.548 |
| General Science, Space, and Technology (250): | | | | | | | | | | | | | |
| BA | 23.047 | 22.741 | 23.561 | 24.314 | 25.122 | 25.867 | 26.472 | 27.108 | 27.767 | 28.430 | 29.100 | 121.605 | 260.482 |
| OT | 21.457 | 22.251 | 22.989 | 23.627 | 24.381 | 25.095 | 25.768 | 26.404 | 27.047 | 27.703 | 28.360 | 118.343 | 253.625 |
| Energy (270): | | | | | | | | | | | | | |
| BA | 3.237 | 3.625 | 3.888 | 3.813 | 3.794 | 4.752 | 4.840 | 4.960 | 5.086 | 5.211 | 5.344 | 19.872 | 45.313 |
| OT | 3.151 | 3.614 | 3.856 | 3.915 | 3.816 | 4.562 | 4.804 | 4.919 | 5.043 | 5.167 | 5.297 | 19.763 | 44.993 |
| Natural Resources and Environment (300): | | | | | | | | | | | | | |
| BA | 29.238 | 27.018 | 27.588 | 28.150 | 28.751 | 29.646 | 30.518 | 31.431 | 32.374 | 33.340 | 34.320 | 141.153 | 303.136 |
| OT | 27.857 | 28.167 | 28.205 | 28.427 | 28.771 | 29.305 | 30.073 | 30.914 | 31.800 | 32.700 | 33.657 | 142.875 | 302.019 |
| Agriculture (350): | | | | | | | | | | | | | |
| BA | 5.727 | 5.109 | 5.467 | 5.569 | 5.691 | 5.838 | 6.005 | 6.177 | 6.354 | 6.538 | 6.728 | 27.674 | 59.476 |
| OT | 5.852 | 5.537 | 5.334 | 5.462 | 5.599 | 5.783 | 5.943 | 6.116 | 6.287 | 6.471 | 6.658 | 27.715 | 59.190 |
| Commerce and Housing Credit (370): | | | | | | | | | | | | | |
| BA | 0.150 | −0.503 | −0.217 | −0.489 | 0.595 | 0.916 | 1.225 | 1.280 | 1.369 | 1.439 | 1.521 | 0.302 | 7.136 |
| OT | 0.054 | 0.147 | −0.314 | −0.564 | 0.523 | 0.730 | 1.042 | 1.150 | 1.234 | 1.333 | 1.387 | 0.522 | 6.668 |
| On-budget: | | | | | | | | | | | | | |
| BA | 0.150 | −0.503 | −0.217 | −0.489 | 0.595 | 0.916 | 1.225 | 1.280 | 1.369 | 1.439 | 1.521 | 0.302 | 7.136 |
| OT | 0.054 | 0.147 | −0.314 | −0.564 | 0.523 | 0.730 | 1.042 | 1.150 | 1.234 | 1.333 | 1.387 | 0.522 | 6.668 |
| Off-budget: | | | | | | | | | | | | | |
| BA | | | | | | | | | | | | | |
| OT | | | | | | | | | | | | | |
| Transportation (400): | | | | | | | | | | | | | |
| BA | 22.611 | 22.225 | 22.140 | 22.544 | 23.010 | 23.554 | 24.279 | 25.042 | 25.828 | 26.635 | 27.468 | 113.473 | 242.725 |
| OT | 65.184 | 66.995 | 64.772 | 64.536 | 65.335 | 66.443 | 67.687 | 69.059 | 70.519 | 72.070 | 73.653 | 328.081 | 681.069 |
| Community and Regional Development (450): | | | | | | | | | | | | | |
| BA | 11.725 | 13.909 | 14.227 | 14.527 | 14.849 | 15.313 | 15.668 | 16.043 | 16.434 | 16.824 | 17.218 | 72.825 | 155.012 |
| OT | 16.054 | 16.016 | 16.116 | 15.289 | 15.145 | 14.775 | 15.116 | 15.491 | 15.866 | 16.227 | 16.614 | 77.341 | 156.655 |
| Education, Training, Employment and Social Services (500): | | | | | | | | | | | | | |
| BA | 72.875 | 75.390 | 74.170 | 75.775 | 77.459 | 79.444 | 80.873 | 82.381 | 83.947 | 85.515 | 87.091 | 382.238 | 802.045 |
| OT | 71.958 | 74.172 | 73.051 | 74.414 | 75.943 | 77.662 | 79.647 | 81.218 | 82.757 | 84.313 | 85.892 | 375.242 | 789.069 |
| Health (550): | | | | | | | | | | | | | |
| BA | 49.468 | 48.063 | 49.093 | 50.183 | 51.285 | 52.591 | 53.850 | 55.162 | 56.522 | 57.887 | 59.271 | 251.215 | 533.907 |
| OT | 44.349 | 47.097 | 48.243 | 49.086 | 50.216 | 51.105 | 52.282 | 53.540 | 54.849 | 56.186 | 57.537 | 245.747 | 520.141 |
| Medicare (570): | | | | | | | | | | | | | |
| BA | 3.798 | 3.619 | 3.687 | 3.785 | 3.888 | 4.009 | 4.221 | 4.433 | 4.662 | 4.936 | 5.234 | 18.988 | 42.474 |
| OT | 3.797 | 3.668 | 3.723 | 3.795 | 3.883 | 4.000 | 4.192 | 4.401 | 4.629 | 4.891 | 5.184 | 19.069 | 42.366 |
| Income Security (600): | | | | | | | | | | | | | |
| BA | 44.020 | 44.436 | 45.235 | 46.150 | 46.305 | 46.540 | 47.533 | 48.538 | 49.589 | 50.639 | 51.691 | 228.666 | 476.656 |
| OT | 50.781 | 50.570 | 48.947 | 49.387 | 49.075 | 48.944 | 49.724 | 50.427 | 51.286 | 52.128 | 52.985 | 246.923 | 503.473 |
| Social Security (650): | | | | | | | | | | | | | |
| BA | 3.833 | 4.160 | 4.226 | 4.310 | 4.407 | 4.519 | 4.671 | 4.829 | 4.991 | 5.158 | 5.333 | 21.622 | 46.604 |
| OT | 3.859 | 4.171 | 4.225 | 4.318 | 4.408 | 4.515 | 4.661 | 4.816 | 4.980 | 5.145 | 5.320 | 21.637 | 46.559 |
| On-budget: | | | | | | | | | | | | | |
| BA | 0.021 | 0.024 | 0.024 | 0.025 | 0.026 | 0.026 | 0.027 | 0.028 | 0.029 | 0.030 | 0.031 | 0.125 | 0.270 |
| OT | 0.021 | 0.023 | 0.024 | 0.025 | 0.026 | 0.026 | 0.027 | 0.028 | 0.029 | 0.030 | 0.031 | 0.124 | 0.269 |
| Off-budget: | | | | | | | | | | | | | |
| BA | 3.812 | 4.136 | 4.202 | 4.285 | 4.381 | 4.493 | 4.644 | 4.801 | 4.962 | 5.128 | 5.302 | 21.497 | 46.334 |
| OT | 3.838 | 4.148 | 4.201 | 4.293 | 4.382 | 4.489 | 4.634 | 4.788 | 4.951 | 5.115 | 5.289 | 21.513 | 46.290 |
| Veterans Benefits and Services (700): | | | | | | | | | | | | | |
| BA | 26.532 | 28.162 | 27.729 | 28.153 | 28.610 | 29.174 | 30.128 | 31.102 | 32.116 | 33.159 | 34.234 | 141.828 | 302.567 |
| OT | 26.902 | 27.922 | 27.886 | 28.066 | 28.515 | 29.124 | 29.969 | 30.924 | 31.931 | 32.968 | 34.036 | 141.513 | 301.341 |
| Administration of Justice (750): | | | | | | | | | | | | | |
| BA | 36.289 | 33.314 | 35.592 | 36.372 | 37.247 | 38.266 | 39.328 | 40.482 | 41.819 | 43.190 | 44.612 | 180.791 | 390.222 |
| OT | 35.484 | 37.693 | 36.532 | 36.636 | 37.212 | 38.127 | 39.256 | 40.398 | 41.614 | 42.961 | 44.373 | 186.200 | 394.802 |
| General Government (800): | | | | | | | | | | | | | |
| BA | 15.702 | 17.284 | 17.642 | 17.399 | 17.797 | 18.252 | 18.873 | 19.532 | 20.188 | 20.882 | 21.595 | 88.374 | 189.444 |
| OT | 15.570 | 16.922 | 17.865 | 17.516 | 17.583 | 17.910 | 18.454 | 19.093 | 19.737 | 20.418 | 21.120 | 87.796 | 186.618 |
| Allowances (920): | | | | | | | | | | | | | |
| BA | | −1.067 | | | | | | | | | | −1.067 | −1.067 |
| OT | | −0.614 | −0.292 | −0.093 | −0.036 | −0.015 | | | | | | −1.050 | −1.050 |

HOUSE-PASSED FISCAL YEAR 2004 BUDGET RESOLUTION: MANDATORY SPENDING

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| SUMMARY | | | | | | | | | | | | | |
| Total Spending: | | | | | | | | | | | | | |
| BA | 1,392.759 | 1,450.009 | 1,546.965 | 1,653.104 | 1,736.974 | 1,824.560 | 1,918.726 | 2,010.292 | 2,119.242 | 2,223.699 | 2,351.655 | 8,211.612 | 18,835.226 |
| OT | 1,338.728 | 1,401.100 | 1,495.578 | 1,592.424 | 1,677.127 | 1,763.190 | 1,856.214 | 1,947.486 | 2,057.855 | 2,153.914 | 2,284.800 | 7,929.419 | 18,229.688 |
| On-budget: | | | | | | | | | | | | | |
| BA | 1,028.062 | 1,067.269 | 1,154.254 | 1,249.922 | 1,321.306 | 1,395.140 | 1,472.817 | 1,546.161 | 1,636.661 | 1,718.055 | 1,819.738 | 6,187.891 | 14,381.323 |
| OT | 976.051 | 1,020.770 | 1,105.657 | 1,192.322 | 1,264.829 | 1,337.520 | 1,414.445 | 1,487.795 | 1,580.104 | 1,653.580 | 1,758.683 | 5,921.098 | 13,815.705 |
| Off-budget: | | | | | | | | | | | | | |
| BA | 364.697 | 382.740 | 392.711 | 403.182 | 415.668 | 429.420 | 445.909 | 464.131 | 482.581 | 505.644 | 531.917 | 2,023.721 | 4,453.903 |
| OT | 362.677 | 380.330 | 389.921 | 400.102 | 412.298 | 425.670 | 441.769 | 459.691 | 477.751 | 500.334 | 526.117 | 2,008.321 | 4,413.983 |
| BY FUNCTION | | | | | | | | | | | | | |
| National Defense (050): | | | | | | | | | | | | | |
| BA | 0.357 | 0.488 | 0.634 | 0.678 | 0.706 | 0.757 | 0.779 | 0.814 | 0.844 | 0.851 | 0.891 | 3.263 | 7.442 |
| OT | −0.144 | 0.355 | 0.555 | 0.632 | 0.661 | 0.704 | 0.727 | 0.760 | 0.786 | 0.788 | 0.826 | 2.907 | 6.794 |
| International Affairs (150): | | | | | | | | | | | | | |
| BA | −2.901 | −3.093 | −0.491 | 0.470 | 0.429 | 0.329 | 0.229 | 0.115 | 0.128 | 0.132 | 0.155 | −2.356 | −1.597 |
| OT | −6.717 | −2.722 | −2.798 | −2.898 | −2.922 | −2.931 | −3.026 | −3.155 | −3.181 | −3.219 | −3.178 | −14.271 | −30.030 |
| General Science, Space, and Technology (250): | | | | | | | | | | | | | |
| BA | 0.106 | 0.030 | 0.030 | 0.030 | 0.031 | 0.032 | 0.032 | 0.032 | 0.033 | 0.034 | 0.034 | 0.153 | 0.318 |
| OT | 0.099 | 0.097 | 0.093 | 0.063 | 0.044 | 0.032 | 0.031 | 0.031 | 0.032 | 0.032 | 0.033 | 0.329 | 0.488 |
| Energy (270): | | | | | | | | | | | | | |
| BA | −1.163 | −1.042 | −1.181 | −1.204 | −1.363 | −1.764 | −1.863 | −1.875 | −1.905 | −1.923 | −1.943 | −6.554 | −16.063 |
| OT | −2.712 | −2.686 | −2.895 | −2.671 | −2.794 | −3.162 | −3.144 | −3.138 | −3.088 | −2.851 | −3.004 | −14.208 | −29.433 |
| Natural Resources and Environment (300): | | | | | | | | | | | | | |
| BA | 1.578 | 2.222 | 2.665 | 2.795 | 2.702 | 2.584 | 2.945 | 3.001 | 3.064 | 3.014 | 2.931 | 12.968 | 27.923 |
| OT | 1.083 | 1.701 | 2.071 | 2.776 | 2.564 | 2.408 | 2.770 | 2.854 | 2.952 | 2.926 | 2.943 | 11.520 | 25.965 |
| Agriculture (350): | | | | | | | | | | | | | |
| BA | 18.691 | 19.083 | 21.014 | 20.628 | 19.876 | 18.769 | 18.993 | 18.116 | 17.427 | 16.852 | 16.427 | 99.370 | 187.185 |
| OT | 17.513 | 17.826 | 19.871 | 19.538 | 18.831 | 17.760 | 18.148 | 17.410 | 16.743 | 16.183 | 15.755 | 93.826 | 178.065 |
| Commerce and Housing Credit (370): | | | | | | | | | | | | | |
| BA | 5.062 | 7.708 | 8.354 | 6.162 | 5.405 | 4.187 | 3.774 | 3.341 | 3.068 | 2.830 | 2.544 | 31.816 | 47.373 |

HOUSE-PASSED FISCAL YEAR 2004 BUDGET RESOLUTION: MANDATORY SPENDING—Continued

[Dollars in billions]

| Fiscal Year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| OT | 2.227 | 3.147 | 3.771 | 1.051 | −0.591 | −2.292 | −2.835 | −3.734 | −4.608 | −5.278 | −5.525 | 5.086 | −16.894 |
| On-budget: | | | | | | | | | | | | | |
| BA | 8.662 | 7.908 | 8.854 | 8.640 | 8.576 | 7.719 | 7.549 | 7.470 | 7.583 | 7.603 | 7.738 | 41.697 | 79.640 |
| OT | 5.827 | 3.347 | 4.271 | 3.529 | 2.580 | 1.240 | 0.940 | 0.395 | −0.093 | −0.505 | −0.331 | 14.967 | 15.373 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −3.600 | −0.200 | −0.500 | −2.478 | −3.171 | −3.532 | −3.775 | −4.129 | −4.515 | −4.773 | −5.194 | −9.881 | −32.267 |
| OT | −3.600 | −0.200 | −0.500 | −2.478 | −3.171 | −3.532 | −3.775 | −4.129 | −4.515 | −4.773 | −5.194 | −9.881 | −32.267 |
| Transportation (400): | | | | | | | | | | | | | |
| BA | 41.480 | 43.205 | 43.666 | 44.174 | 44.716 | 45.138 | 45.602 | 46.042 | 46.961 | 47.863 | 48.815 | 220.899 | 456.182 |
| OT | 2.663 | 2.230 | 2.145 | 2.002 | 1.929 | 1.854 | 1.865 | 1.856 | 1.891 | 1.934 | 1.987 | 10.160 | 19.693 |
| Community and Regional Development (450): | | | | | | | | | | | | | |
| BA | 0.526 | 0.228 | 0.129 | 0.120 | 0.119 | 0.038 | 0.034 | 0.033 | 0.034 | 0.034 | 0.038 | 0.634 | 0.807 |
| OT | −0.060 | −0.093 | −0.125 | −0.170 | −0.227 | −0.275 | −0.313 | −0.345 | −0.342 | −0.335 | −0.326 | −0.890 | −2.551 |
| Education, Training, Employment and Social Services (500): | | | | | | | | | | | | | |
| BA | 13.294 | 9.358 | 10.211 | 10.895 | 11.191 | 11.367 | 11.520 | 11.554 | 11.885 | 12.120 | 12.445 | 53.022 | 112.546 |
| OT | 9.382 | 11.534 | 10.547 | 10.225 | 10.474 | 10.693 | 10.839 | 10.952 | 11.179 | 11.400 | 11.710 | 53.473 | 109.553 |
| Health (550): | | | | | | | | | | | | | |
| BA | 172.410 | 187.040 | 199.570 | 215.279 | 232.952 | 251.189 | 270.303 | 290.534 | 314.159 | 337.504 | 364.483 | 1,086.030 | 2,663.013 |
| OT | 173.672 | 188.382 | 200.115 | 215.863 | 233.147 | 251.532 | 270.588 | 290.872 | 314.550 | 337.947 | 364.910 | 1,089.039 | 2,667.906 |
| Medicare (570): | | | | | | | | | | | | | |
| BA | 244.788 | 262.919 | 279.245 | 318.452 | 340.768 | 366.536 | 392.710 | 420.556 | 447.956 | 484.937 | 523.352 | 1,567.920 | 3,837.431 |
| OT | 244.637 | 263.197 | 282.189 | 315.222 | 341.060 | 366.436 | 392.493 | 420.862 | 451.365 | 481.173 | 523.677 | 1,568.104 | 3,837.674 |
| Income Security (600): | | | | | | | | | | | | | |
| BA | 282.568 | 271.049 | 280.686 | 285.622 | 290.081 | 298.208 | 305.455 | 311.832 | 324.783 | 326.984 | 339.805 | 1,425.646 | 3,034.505 |
| OT | 283.592 | 270.550 | 280.412 | 284.829 | 289.233 | 297.049 | 304.177 | 310.720 | 323.829 | 326.230 | 339.366 | 1,422.073 | 3,026.395 |
| Social Security (650): | | | | | | | | | | | | | |
| BA | 475.049 | 496.929 | 517.267 | 542.481 | 570.715 | 601.672 | 636.566 | 674.630 | 715.660 | 761.153 | 811.029 | 2,729.064 | 6,328.102 |
| OT | 473.029 | 494.519 | 514.477 | 539.401 | 567.345 | 597.922 | 632.426 | 670.190 | 710.830 | 755.843 | 805.229 | 2,713.664 | 6,288.182 |
| On-budget: | | | | | | | | | | | | | |
| BA | 13.234 | 14.199 | 15.306 | 16.426 | 17.949 | 19.801 | 21.955 | 24.329 | 28.206 | 31.420 | 34.450 | 83.681 | 224.041 |
| OT | 13.234 | 14.199 | 15.306 | 16.426 | 17.949 | 19.801 | 21.955 | 24.329 | 28.206 | 31.420 | 34.450 | 83.681 | 224.041 |
| Off-budget: | | | | | | | | | | | | | |
| BA | 461.815 | 482.730 | 501.961 | 526.055 | 552.766 | 581.871 | 614.611 | 650.301 | 687.454 | 729.733 | 776.579 | 2,645.383 | 6,104.061 |
| OT | 459.795 | 480.320 | 499.171 | 522.975 | 549.396 | 578.121 | 610.471 | 645.861 | 682.624 | 724.423 | 770.779 | 2,629.983 | 6,064.141 |
| Veterans Benefits and Services (700): | | | | | | | | | | | | | |
| BA | 31.065 | 33.405 | 38.118 | 35.847 | 33.738 | 36.522 | 36.811 | 37.120 | 40.598 | 36.708 | 40.284 | 177.630 | 369.151 |
| OT | 30.584 | 33.197 | 37.746 | 35.764 | 33.559 | 36.433 | 36.726 | 37.014 | 40.487 | 36.509 | 40.162 | 176.699 | 367.597 |
| Administration of Justice (750): | | | | | | | | | | | | | |
| BA | 2.254 | 3.999 | 2.084 | 1.214 | 0.719 | 0.618 | 0.518 | 0.409 | 0.341 | 0.269 | 0.196 | 8.634 | 10.367 |
| OT | 2.228 | 3.205 | 2.475 | 1.394 | 0.650 | 0.512 | 0.413 | 0.305 | 0.241 | 0.170 | 0.098 | 8.236 | 9.463 |
| General Government (800): | | | | | | | | | | | | | |
| BA | 2.476 | 2.495 | 2.396 | 2.273 | 2.179 | 1.537 | 1.335 | 1.088 | 1.154 | 1.208 | 1.286 | 10.880 | 16.951 |
| OT | 2.533 | 2.675 | 2.361 | 2.215 | 2.154 | 1.674 | 1.346 | 1.082 | 1.137 | 1.333 | 1.254 | 11.079 | 17.231 |
| Net Interest (900): | | | | | | | | | | | | | |
| BA | 155.632 | 166.912 | 205.969 | 233.138 | 245.717 | 253.445 | 259.512 | 262.464 | 265.793 | 268.782 | 267.822 | 1,105.181 | 2,429.554 |
| OT | 155.632 | 166.912 | 205.969 | 233.138 | 245.717 | 253.445 | 259.512 | 262.464 | 265.793 | 268.782 | 267.822 | 1,105.181 | 2,429.554 |
| On-budget: | | | | | | | | | | | | | |
| BA | 239.741 | 256.670 | 303.916 | 342.042 | 367.472 | 389.300 | 410.519 | 429.676 | 450.251 | 471.470 | 489.580 | 1,659.400 | 3,910.896 |
| OT | 239.741 | 256.670 | 303.916 | 342.042 | 367.472 | 389.300 | 410.519 | 429.676 | 450.251 | 471.470 | 489.580 | 1,659.400 | 3,910.896 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −84.109 | −89.758 | −97.947 | −108.904 | −121.755 | −135.855 | −151.007 | −167.212 | −184.458 | −202.688 | −221.758 | −554.219 | −1,481.342 |
| OT | −84.109 | −89.758 | −97.947 | −108.904 | −121.755 | −135.855 | −151.007 | −167.212 | −184.458 | −202.688 | −221.758 | −554.219 | −1,481.342 |
| Allowances (920): | | | | | | | | | | | | | |
| BA | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. |
| OT | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. | .................. |
| Undistributed Offsetting Receipts (950): | | | | | | | | | | | | | |
| BA | −50.513 | −52.926 | −63.401 | −65.950 | −63.707 | −66.604 | −66.529 | −69.514 | −72.741 | −75.653 | −78.939 | −312.588 | −675.964 |
| OT | −50.513 | −52.926 | −63.401 | −65.950 | −63.707 | −66.604 | −66.529 | −69.514 | −72.741 | −75.653 | −78.939 | −312.588 | −675.964 |
| On-budget: | | | | | | | | | | | | | |
| BA | −41.104 | −42.894 | −52.598 | −54.459 | −51.535 | −53.540 | −52.609 | −54.685 | −56.841 | −59.025 | −61.229 | −255.026 | −539.415 |
| OT | −41.104 | −42.894 | −52.598 | −54.459 | −51.535 | −53.540 | −52.609 | −54.685 | −56.841 | −59.025 | −61.229 | −255.026 | −539.415 |
| Off-budget: | | | | | | | | | | | | | |
| BA | −9.409 | −10.032 | −10.803 | −11.491 | −12.172 | −13.064 | −13.920 | −14.829 | −15.900 | −16.628 | −17.710 | −57.562 | −136.549 |
| OT | −9.409 | −10.032 | −10.803 | −11.491 | −12.172 | −13.064 | −13.920 | −14.829 | −15.900 | −16.628 | −17.710 | −57.562 | −136.549 |

SENATE–PASSED FY 2004 BUDGET RESOLUTION AMENDMENT: AGGREGATE AND FUNCTION LEVELS

[Dollars in billions]

| Function | 2002 Actual | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 050—National Defense: | | | | | | | | | | | | | | |
| BA | 362.106 | 395.494 | 400.658 | 420.402 | 440.769 | 461.400 | 482.340 | 489.209 | 495.079 | 502.947 | 510.984 | 519.393 | 2,205.569 | 4,723.181 |
| OT | 348.555 | 389.229 | 401.064 | 414.536 | 426.591 | 439.621 | 464.315 | 477.989 | 487.993 | 500.478 | 501.628 | 514.885 | 2,146.127 | 4,629.100 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 360.988 | 395.137 | 400.058 | 419.437 | 439.507 | 459.729 | 480.129 | 486.788 | 492.526 | 500.259 | 508.180 | 516.432 | 2,198.860 | 4,703.045 |
| OT | 348.511 | 389.373 | 400.561 | 413.682 | 425.379 | 437.995 | 462.157 | 475.620 | 485.494 | 497.848 | 498.887 | 511.989 | 2,139.774 | 4,609.612 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 1.118 | 0.357 | 0.600 | 0.965 | 1.262 | 1.671 | 2.211 | 2.421 | 2.553 | 2.688 | 2.804 | 2.961 | 6.709 | 20.136 |
| OT | 0.044 | −0.144 | 0.503 | 0.854 | 1.212 | 1.626 | 2.158 | 2.369 | 2.499 | 2.630 | 2.741 | 2.896 | 6.353 | 19.488 |
| 150—International Affairs: | | | | | | | | | | | | | | |
| BA | 25.144 | 22.506 | 25.681 | 29.734 | 32.308 | 33.603 | 34.611 | 35.413 | 36.258 | 37.136 | 38.005 | 38.885 | 155.937 | 341.634 |
| OT | 22.357 | 19.283 | 24.207 | 24.917 | 26.539 | 28.464 | 29.604 | 30.733 | 31.689 | 32.565 | 33.408 | 34.298 | 133.730 | 296.422 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 25.208 | 25.407 | 28.651 | 30.034 | 31.579 | 32.854 | 33.845 | 34.630 | 35.459 | 36.322 | 37.176 | 38.037 | 156.963 | 338.587 |
| OT | 26.229 | 26.000 | 26.775 | 27.522 | 29.195 | 31.084 | 32.119 | 33.225 | 34.179 | 35.072 | 35.935 | 36.778 | 146.694 | 321.882 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | −0.064 | −2.901 | −2.970 | −0.300 | 0.729 | 0.749 | 0.766 | 0.783 | 0.799 | 0.814 | 0.829 | 0.848 | −1.026 | 3.047 |
| OT | −3.872 | −6.717 | −2.568 | −2.605 | −2.656 | −2.620 | −2.515 | −2.492 | −2.490 | −2.507 | −2.527 | −2.480 | −12.964 | −25.460 |
| 250—General Science, Space and Technology: | | | | | | | | | | | | | | |
| BA | 22.016 | 23.153 | 23.603 | 24.433 | 25.217 | 26.055 | 26.832 | 27.462 | 28.121 | 28.805 | 29.492 | 30.185 | 126.140 | 270.205 |
| OT | 20.772 | 21.556 | 22.728 | 23.715 | 24.420 | 25.202 | 25.942 | 26.639 | 27.296 | 27.963 | 28.639 | 29.319 | 122.007 | 261.863 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 21.922 | 23.047 | 23.573 | 24.402 | 25.186 | 26.023 | 26.799 | 27.429 | 28.087 | 28.770 | 29.456 | 30.149 | 125.983 | 269.874 |
| OT | 20.715 | 21.457 | 22.630 | 23.620 | 24.356 | 25.157 | 25.909 | 26.607 | 27.263 | 27.929 | 28.605 | 29.284 | 121.672 | 261.360 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 0.094 | 0.106 | 0.030 | 0.031 | 0.031 | 0.032 | 0.033 | 0.033 | 0.034 | 0.035 | 0.036 | 0.036 | 0.157 | 0.331 |
| OT | 0.057 | 0.099 | 0.098 | 0.095 | 0.064 | 0.045 | 0.033 | 0.032 | 0.033 | 0.034 | 0.034 | 0.035 | 0.335 | 0.503 |
| 270—Energy: | | | | | | | | | | | | | | |
| BA | 0.400 | 2.074 | 2.634 | 2.797 | 2.714 | 2.540 | 3.080 | 3.090 | 3.194 | 3.296 | 3.408 | 3.520 | 13.765 | 30.273 |
| OT | 0.483 | 0.439 | 0.873 | 0.947 | 1.272 | 1.069 | 1.419 | 1.686 | 1.794 | 1.976 | 2.357 | 2.326 | 5.578 | 15.718 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 3.248 | 3.237 | 3.672 | 3.975 | 3.914 | 3.902 | 4.858 | 4.975 | 5.096 | 5.227 | 5.357 | 5.489 | 20.321 | 46.465 |
| OT | 2.974 | 3.151 | 3.577 | 3.869 | 3.971 | 3.901 | 4.647 | 4.911 | 5.031 | 5.157 | 5.286 | 5.415 | 19.963 | 45.764 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | −2.848 | −1.163 | −1.038 | −1.178 | −1.200 | −1.362 | −1.778 | −1.885 | −1.902 | −1.931 | −1.949 | −1.969 | −6.556 | −16.192 |
| OT | −2.491 | −2.712 | −2.704 | −2.922 | −2.699 | −2.832 | −3.228 | −3.225 | −3.237 | −3.181 | −2.929 | −3.089 | −14.385 | −30.046 |
| 300—Natural Resources and Environment: | | | | | | | | | | | | | | |
| BA | 30.636 | 30.816 | 35.253 | 32.639 | 33.261 | 33.576 | 34.245 | 35.370 | 36.198 | 36.958 | 37.592 | 38.316 | 168.974 | 353.408 |

SENATE–PASSED FY 2004 BUDGET RESOLUTION AMENDMENT: AGGREGATE AND FUNCTION LEVELS—Continued

[Dollars in billions]

| Function | 2002 Actual | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| OT | 29.459 | 28.940 | 31.378 | 32.325 | 33.889 | 34.128 | 34.119 | 34.701 | 35.512 | 36.267 | 36.874 | 37.677 | 165.840 | 346.870 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 29.124 | 29.238 | 32.836 | 29.802 | 30.097 | 30.583 | 31.319 | 31.998 | 32.705 | 33.448 | 34.196 | 34.970 | 154.637 | 321.954 |
| OT | 28.949 | 27.857 | 29.489 | 30.090 | 30.936 | 31.392 | 31.431 | 31.542 | 32.199 | 32.899 | 33.595 | 34.342 | 153.339 | 317.915 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 1.512 | 1.578 | 2.417 | 2.837 | 3.164 | 2.993 | 2.926 | 3.372 | 3.493 | 3.510 | 3.396 | 3.346 | 14.337 | 31.454 |
| OT | 0.510 | 1.083 | 1.889 | 2.235 | 2.954 | 2.736 | 2.688 | 3.159 | 3.313 | 3.368 | 3.279 | 3.335 | 12.501 | 28.955 |
| 350—Agriculture: | | | | | | | | | | | | | | |
| BA | 23.821 | 24.418 | 24.457 | 26.844 | 26.661 | 26.141 | 25.363 | 25.943 | 25.407 | 24.864 | 24.455 | 24.185 | 129.466 | 254.320 |
| OT | 22.188 | 23.365 | 23.530 | 25.604 | 25.426 | 24.949 | 24.237 | 24.979 | 24.578 | 24.053 | 23.660 | 23.386 | 123.746 | 244.402 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 5.688 | 5.727 | 5.243 | 5.609 | 5.734 | 5.876 | 6.037 | 6.208 | 6.386 | 6.575 | 6.767 | 6.962 | 28.499 | 61.397 |
| OT | 5.306 | 5.852 | 5.589 | 5.533 | 5.613 | 5.758 | 5.958 | 6.128 | 6.303 | 6.487 | 6.679 | 6.871 | 28.451 | 60.919 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 18.133 | 18.691 | 19.214 | 21.235 | 20.927 | 20.265 | 19.326 | 19.735 | 19.021 | 18.289 | 17.688 | 17.223 | 100.967 | 192.923 |
| OT | 16.882 | 17.513 | 17.941 | 20.071 | 19.813 | 19.191 | 18.279 | 18.851 | 18.275 | 17.566 | 16.981 | 16.515 | 95.295 | 183.483 |
| 370—Commerce and Housing Credit: | | | | | | | | | | | | | | |
| BA | 11.262 | 5.212 | 7.228 | 8.155 | 5.714 | 5.367 | 5.123 | 4.663 | 4.190 | 3.783 | 3.628 | 3.281 | 31.587 | 51.132 |
| OT | −0.385 | 2.281 | 3.286 | 3.462 | 0.550 | −0.608 | −1.377 | −1.844 | −2.679 | −3.669 | −4.219 | −4.526 | 5.313 | −11.624 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 0.693 | 0.150 | −0.496 | −0.269 | −0.554 | 0.534 | 0.878 | 0.767 | 0.661 | 0.534 | 0.625 | 0.574 | 0.093 | 3.254 |
| OT | 1.230 | 0.054 | 0.092 | −0.393 | −0.650 | 0.449 | 0.686 | 0.633 | 0.549 | 0.414 | 0.502 | 0.450 | 0.184 | 2.732 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 10.569 | 5.062 | 7.724 | 8.424 | 6.268 | 4.833 | 4.245 | 3.896 | 3.529 | 3.249 | 3.003 | 2.707 | 31.494 | 47.878 |
| OT | −1.615 | 2.227 | 3.194 | 3.855 | 1.200 | −1.057 | −2.063 | −2.477 | −3.228 | −4.083 | −4.721 | −4.976 | 5.129 | −14.356 |
| 370 on-budget: | | | | | | | | | | | | | | |
| BA | 8.191 | 8.812 | 7.428 | 8.655 | 8.192 | 8.538 | 8.655 | 8.438 | 8.319 | 8.298 | 8.401 | 8.475 | 41.468 | 83.399 |
| OT | 0.266 | 5.881 | 3.486 | 3.962 | 3.028 | 2.563 | 2.155 | 1.931 | 1.450 | 0.846 | 0.554 | 0.668 | 15.194 | 20.643 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 0.693 | 0.150 | −0.496 | −0.269 | −0.554 | 0.534 | 0.878 | 0.767 | 0.661 | 0.534 | 0.625 | 0.574 | 0.093 | 3.254 |
| OT | 1.230 | 0.054 | 0.092 | −0.393 | −0.650 | 0.449 | 0.686 | 0.633 | 0.549 | 0.414 | 0.502 | 0.450 | 0.184 | 2.732 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 7.498 | 8.662 | 7.924 | 8.924 | 8.746 | 8.004 | 7.777 | 7.671 | 7.658 | 7.764 | 7.776 | 7.901 | 41.375 | 80.145 |
| OT | −0.964 | 5.827 | 3.394 | 4.355 | 3.678 | 2.114 | 1.469 | 1.298 | 0.901 | 0.432 | 0.052 | 0.218 | 15.010 | 17.911 |
| 400—Transportation: | | | | | | | | | | | | | | |
| BA | 68.887 | 64.091 | 75.783 | 76.502 | 77.515 | 79.931 | 82.747 | 85.361 | 72.323 | 73.183 | 74.067 | 74.987 | 392.478 | 772.399 |
| OT | 61.862 | 67.847 | 71.555 | 71.581 | 73.035 | 74.938 | 77.285 | 79.865 | 79.035 | 75.687 | 74.864 | 75.124 | 368.394 | 752.969 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 23.820 | 22.611 | 25.715 | 25.040 | 24.857 | 25.840 | 26.936 | 28.756 | 26.221 | 27.040 | 27.875 | 28.739 | 128.388 | 267.019 |
| OT | 57.292 | 65.184 | 69.294 | 69.396 | 70.986 | 72.954 | 75.358 | 77.909 | 77.068 | 73.685 | 72.816 | 73.023 | 357.988 | 732.489 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 45.067 | 41.480 | 50.068 | 51.462 | 52.658 | 54.091 | 55.811 | 56.605 | 46.102 | 46.143 | 46.192 | 46.248 | 264.090 | 505.380 |
| OT | 4.570 | 2.663 | 2.261 | 2.185 | 2.049 | 1.984 | 1.927 | 1.956 | 1.967 | 2.002 | 2.048 | 2.101 | 10.406 | 20.480 |
| 450—Community and Regional Development: | | | | | | | | | | | | | | |
| BA | 23.361 | 15.751 | 14.323 | 14.398 | 14.581 | 14.796 | 15.005 | 15.240 | 15.493 | 15.752 | 16.015 | 16.283 | 73.103 | 151.886 |
| OT | 12.991 | 17.569 | 16.716 | 16.696 | 15.553 | 15.096 | 14.383 | 14.558 | 14.761 | 15.010 | 15.252 | 15.519 | 78.444 | 153.543 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 23.051 | 15.225 | 13.826 | 13.999 | 14.188 | 14.401 | 14.688 | 14.921 | 15.168 | 15.425 | 15.686 | 15.950 | 71.102 | 148.252 |
| OT | 14.108 | 17.629 | 16.787 | 16.517 | 15.474 | 15.059 | 14.390 | 14.602 | 14.835 | 15.079 | 15.313 | 15.569 | 78.227 | 153.624 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 0.310 | 0.526 | 0.497 | 0.399 | 0.393 | 0.395 | 0.317 | 0.319 | 0.325 | 0.327 | 0.329 | 0.333 | 2.001 | 3.634 |
| OT | −1.117 | −0.060 | −0.071 | 0.179 | 0.079 | 0.037 | −0.007 | −0.044 | −0.074 | −0.069 | −0.061 | −0.050 | 0.217 | −0.081 |
| 500—Education, Training, Employment, and Social Services: | | | | | | | | | | | | | | |
| BA | 79.861 | 82.974 | 97.610 | 91.777 | 92.818 | 95.959 | 99.315 | 102.203 | 104.059 | 106.160 | 108.544 | 110.143 | 477.479 | 1,008.588 |
| OT | 70.544 | 81.531 | 86.279 | 91.286 | 91.964 | 92.948 | 95.279 | 98.470 | 101.281 | 103.536 | 105.570 | 107.642 | 457.757 | 974.256 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 71.275 | 72.875 | 86.322 | 81.280 | 81.575 | 84.353 | 87.416 | 90.037 | 91.731 | 93.495 | 95.632 | 96.904 | 420.946 | 888.745 |
| OT | 62.751 | 71.958 | 75.843 | 81.012 | 81.317 | 82.028 | 84.040 | 87.013 | 89.584 | 91.609 | 93.411 | 95.171 | 404.241 | 861.029 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 8.586 | 10.099 | 11.288 | 10.497 | 11.243 | 11.606 | 11.899 | 12.166 | 12.328 | 12.665 | 12.912 | 13.239 | 56.533 | 119.843 |
| OT | 7.793 | 9.573 | 10.436 | 10.274 | 10.647 | 10.920 | 11.239 | 11.457 | 11.697 | 11.927 | 12.159 | 12.471 | 53.516 | 113.227 |
| 550—Health: | | | | | | | | | | | | | | |
| BA | 205.120 | 222.913 | 248.464 | 264.948 | 284.216 | 304.438 | 326.942 | 350.373 | 375.419 | 401.552 | 415.777 | 445.554 | 1,429.008 | 3,417.683 |
| OT | 196.521 | 217.881 | 246.671 | 264.680 | 284.024 | 303.522 | 325.618 | 348.889 | 373.890 | 400.014 | 414.359 | 444.147 | 1,424.514 | 3,405.813 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 45.789 | 49.468 | 52.712 | 50.667 | 51.800 | 52.950 | 54.299 | 55.607 | 56.972 | 58.387 | 59.806 | 61.246 | 262.428 | 554.446 |
| OT | 39.426 | 44.349 | 50.799 | 49.394 | 50.423 | 51.637 | 52.576 | 53.801 | 55.102 | 56.460 | 57.851 | 59.252 | 254.828 | 537.294 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 159.331 | 173.445 | 195.752 | 214.281 | 232.416 | 251.488 | 272.643 | 294.766 | 318.447 | 343.165 | 355.971 | 384.308 | 1,166.580 | 2,863.237 |
| OT | 157.095 | 173.532 | 195.872 | 215.286 | 233.601 | 251.885 | 273.042 | 295.088 | 318.788 | 343.554 | 356.508 | 384.895 | 1,169.686 | 2,868.519 |
| 570—Medicare: | | | | | | | | | | | | | | |
| BA | 231.399 | 248.586 | 265.178 | 282.869 | 322.045 | 344.178 | 369.577 | 395.685 | 422.684 | 453.721 | 488.367 | 526.981 | 1,583.847 | 3,871.285 |
| OT | 230.855 | 248.434 | 265.443 | 285.817 | 318.806 | 344.448 | 369.452 | 395.424 | 422.942 | 457.078 | 484.541 | 527.237 | 1,583.966 | 3,871.188 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 3.653 | 3.798 | 3.739 | 3.807 | 3.906 | 4.014 | 4.138 | 4.353 | 4.572 | 4.809 | 5.089 | 5.396 | 19.604 | 43.823 |
| OT | 3.156 | 3.797 | 3.726 | 3.811 | 3.897 | 3.992 | 4.113 | 4.309 | 4.524 | 4.757 | 5.027 | 5.327 | 19.539 | 43.483 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 227.746 | 244.788 | 261.439 | 279.062 | 318.139 | 340.164 | 365.439 | 391.332 | 418.112 | 448.912 | 483.278 | 521.585 | 1,564.243 | 3,827.462 |
| OT | 227.699 | 244.637 | 261.717 | 282.006 | 314.909 | 340.456 | 365.339 | 391.115 | 418.418 | 452.321 | 479.514 | 521.910 | 1,564.427 | 3,827.705 |
| 600—Income Security: | | | | | | | | | | | | | | |
| BA | 309.367 | 326.390 | 319.513 | 333.810 | 341.805 | 349.191 | 362.006 | 373.681 | 385.152 | 400.573 | 404.045 | 418.978 | 1,706.325 | 3,688.754 |
| OT | 312.511 | 334.169 | 324.701 | 337.157 | 344.322 | 350.983 | 363.115 | 374.384 | 385.671 | 401.003 | 404.453 | 419.551 | 1,720.278 | 3,705.341 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 42.379 | 44.020 | 45.712 | 48.760 | 50.311 | 52.004 | 53.714 | 55.441 | 57.295 | 59.143 | 61.023 | 62.884 | 250.501 | 546.287 |
| OT | 48.081 | 50.781 | 51.544 | 52.373 | 53.424 | 54.643 | 56.116 | 57.505 | 58.954 | 60.560 | 62.215 | 63.908 | 268.100 | 571.243 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 266.988 | 282.370 | 273.801 | 285.050 | 291.494 | 297.187 | 308.292 | 318.240 | 327.857 | 341.430 | 343.022 | 356.094 | 1,455.824 | 3,142.467 |
| OT | 264.430 | 283.388 | 273.157 | 284.784 | 290.898 | 296.340 | 306.999 | 316.879 | 326.717 | 340.443 | 342.238 | 355.643 | 1,452.178 | 3,134.098 |
| 650—Social Security: | | | | | | | | | | | | | | |
| BA | 462.363 | 478.882 | 501.140 | 521.499 | 546.735 | 575.008 | 606.071 | 641.105 | 679.322 | 720.505 | 766.154 | 816.195 | 2,750.453 | 6,373.734 |
| OT | 455.999 | 476.888 | 498.679 | 518.672 | 543.640 | 571.621 | 602.300 | 636.939 | 674.852 | 715.645 | 760.812 | 810.363 | 2,734.912 | 6,333.523 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 3.523 | 3.833 | 4.282 | 4.363 | 4.450 | 4.549 | 4.665 | 4.820 | 4.983 | 5.151 | 5.323 | 5.503 | 22.309 | 48.089 |
| OT | 3.925 | 3.859 | 4.231 | 4.326 | 4.435 | 4.532 | 4.644 | 4.794 | 4.953 | 5.121 | 5.291 | 5.471 | 22.168 | 47.798 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 458.840 | 475.049 | 496.858 | 517.136 | 542.285 | 570.459 | 601.406 | 636.285 | 674.339 | 715.354 | 760.831 | 810.692 | 2,728.144 | 6,325.645 |
| OT | 452.074 | 473.029 | 494.448 | 514.346 | 539.205 | 567.089 | 597.656 | 632.145 | 669.899 | 710.524 | 755.521 | 804.892 | 2,712.744 | 6,285.725 |
| 650 on-budget: | | | | | | | | | | | | | | |
| BA | 13.997 | 13.255 | 14.294 | 15.471 | 16.421 | 17.919 | 19.704 | 21.810 | 24.283 | 28.170 | 31.357 | 34.347 | 83.809 | 223.776 |
| OT | 13.988 | 13.255 | 14.293 | 15.471 | 16.421 | 17.919 | 19.704 | 21.810 | 24.283 | 28.170 | 31.357 | 34.347 | 83.808 | 223.775 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 0.019 | 0.021 | 0.025 | 0.025 | 0.026 | 0.027 | 0.027 | 0.028 | 0.029 | 0.030 | 0.031 | 0.032 | 0.130 | 0.280 |
| OT | 0.019 | 0.021 | 0.024 | 0.025 | 0.026 | 0.027 | 0.027 | 0.028 | 0.029 | 0.030 | 0.031 | 0.032 | 0.129 | 0.279 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 13.978 | 13.234 | 14.269 | 15.446 | 16.395 | 17.892 | 19.677 | 21.782 | 24.254 | 28.140 | 31.326 | 34.315 | 83.679 | 223.496 |
| OT | 13.969 | 13.234 | 14.269 | 15.446 | 16.395 | 17.892 | 19.677 | 21.782 | 24.254 | 28.140 | 31.326 | 34.315 | 83.679 | 223.496 |
| 700—Veterans Benefits and Services: | | | | | | | | | | | | | | |
| BA | 52.126 | 57.597 | 63.773 | 67.125 | 65.388 | 63.859 | 67.645 | 69.254 | 70.967 | 75.643 | 72.592 | 77.429 | 327.790 | 693.675 |
| OT | 50.983 | 57.486 | 63.200 | 66.530 | 64.970 | 63.416 | 67.374 | 68.899 | 70.563 | 75.223 | 72.071 | 76.963 | 325.490 | 689.209 |

SENATE–PASSED FY 2004 BUDGET RESOLUTION AMENDMENT: AGGREGATE AND FUNCTION LEVELS—Continued

[Dollars in billions]

| Function | 2002 Actual | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Discretionary: | | | | | | | | | | | | | | |
| BA | 24.074 | 26.532 | 29.957 | 28.386 | 28.812 | 29.272 | 29.838 | 30.796 | 31.789 | 32.824 | 33.887 | 35.000 | 146.265 | 310.561 |
| OT | 23.959 | 26.902 | 29.600 | 28.183 | 28.495 | 29.024 | 29.662 | 30.530 | 31.497 | 32.521 | 33.576 | 34.663 | 144.964 | 307.751 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 28.052 | 31.065 | 33.816 | 38.739 | 36.576 | 34.587 | 37.807 | 38.458 | 39.178 | 42.819 | 38.705 | 42.429 | 181.525 | 383.114 |
| OT | 27.024 | 30.584 | 33.600 | 38.347 | 36.475 | 34.392 | 37.712 | 38.369 | 39.066 | 42.702 | 38.495 | 42.300 | 180.526 | 381.458 |
| 750—Administration of Justice: | | | | | | | | | | | | | | |
| BA | 36.171 | 38.543 | 37.757 | 38.077 | 37.965 | 38.442 | 39.458 | 40.478 | 41.580 | 42.870 | 44.188 | 45.557 | 191.699 | 406.372 |
| OT | 34.310 | 37.712 | 40.882 | 39.324 | 38.348 | 38.233 | 39.109 | 40.193 | 41.280 | 42.453 | 43.741 | 45.101 | 195.896 | 408.664 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 34.676 | 36.289 | 33.679 | 35.912 | 36.664 | 37.621 | 38.694 | 39.771 | 40.931 | 42.288 | 43.674 | 45.117 | 182.570 | 394.351 |
| OT | 33.153 | 35.484 | 37.608 | 36.761 | 36.862 | 37.483 | 38.455 | 39.596 | 40.741 | 41.977 | 43.331 | 44.764 | 187.169 | 397.578 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 1.495 | 2.254 | 4.078 | 2.165 | 1.301 | 0.821 | 0.764 | 0.707 | 0.649 | 0.582 | 0.514 | 0.440 | 9.129 | 12.021 |
| OT | 1.157 | 2.228 | 3.274 | 2.563 | 1.486 | 0.750 | 0.654 | 0.597 | 0.539 | 0.476 | 0.410 | 0.337 | 8.727 | 11.086 |
| 800—General Government: | | | | | | | | | | | | | | |
| BA | 18.384 | 18.195 | 20.012 | 20.341 | 22.396 | 21.147 | 21.646 | 21.957 | 22.706 | 23.469 | 24.267 | 25.138 | 105.542 | 223.079 |
| OT | 17.380 | 18.120 | 19.876 | 20.420 | 22.225 | 20.897 | 21.423 | 21.515 | 22.223 | 22.957 | 23.892 | 24.582 | 104.841 | 220.010 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 15.602 | 15.702 | 17.102 | 17.364 | 17.760 | 18.181 | 18.669 | 19.303 | 19.977 | 20.656 | 21.360 | 22.094 | 89.076 | 192.466 |
| OT | 14.640 | 15.570 | 16.783 | 17.479 | 17.648 | 17.956 | 18.306 | 18.849 | 19.500 | 20.161 | 20.853 | 21.571 | 88.172 | 189.106 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 2.782 | 2.493 | 2.910 | 2.977 | 4.636 | 2.966 | 2.977 | 2.654 | 2.729 | 2.813 | 2.907 | 3.044 | 16.466 | 30.613 |
| OT | 2.740 | 2.550 | 3.093 | 2.941 | 4.577 | 2.941 | 3.117 | 2.666 | 2.723 | 2.796 | 3.039 | 3.011 | 16.669 | 30.904 |
| 900—Net Interest: | | | | | | | | | | | | | | |
| BA | 170.955 | 155.592 | 166.095 | 203.823 | 230.541 | 243.499 | 252.354 | 259.782 | 263.974 | 267.195 | 267.392 | 261.100 | 1,096.312 | 2,415.755 |
| OT | 170.957 | 155.592 | 166.095 | 203.823 | 230.541 | 243.499 | 252.354 | 259.782 | 263.974 | 267.195 | 267.392 | 261.100 | 1,096.312 | 2,415.755 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| OT | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 170.955 | 155.592 | 166.095 | 203.823 | 230.541 | 243.499 | 252.354 | 259.782 | 263.974 | 267.195 | 267.392 | 261.100 | 1,096.312 | 2,415.755 |
| OT | 170.957 | 155.592 | 166.095 | 203.823 | 230.541 | 243.499 | 252.354 | 259.782 | 263.974 | 267.195 | 267.392 | 261.100 | 1,096.312 | 2,415.755 |
| 900 on-budget: | | | | | | | | | | | | | | |
| BA | 247.775 | 239.682 | 255.775 | 301.673 | 339.281 | 364.919 | 387.674 | 410.022 | 430.164 | 450.345 | 468.452 | 480.870 | 1,649.322 | 3,889.175 |
| OT | 247.777 | 239.682 | 255.775 | 301.673 | 339.281 | 364.919 | 387.674 | 410.022 | 430.164 | 450.345 | 468.452 | 480.870 | 1,649.322 | 3,889.175 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| OT | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 247.775 | 239.682 | 255.775 | 301.673 | 339.281 | 364.919 | 387.674 | 410.022 | 430.164 | 450.345 | 468.452 | 480.870 | 1,649.322 | 3,889.175 |
| OT | 247.777 | 239.682 | 255.775 | 301.673 | 339.281 | 364.919 | 387.674 | 410.022 | 430.164 | 450.345 | 468.452 | 480.870 | 1,649.322 | 3,889.175 |
| 920—Allowances: | | | | | | | | | | | | | | |
| BA | 0.000 | 0.115 | −16.122 | −5.943 | −2.104 | −1.467 | −6.263 | −19.939 | −41.290 | −19.883 | −23.031 | −27.371 | −31.899 | −163.413 |
| OT | 0.000 | 0.115 | −8.342 | −6.134 | −5.959 | −3.698 | −7.163 | −17.617 | −38.356 | −16.729 | −19.546 | −24.228 | −31.297 | −147.771 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 0.000 | 0.115 | −15.202 | −5.623 | −1.784 | −1.147 | −5.943 | −19.619 | −40.970 | −19.563 | −22.711 | −27.051 | −29.699 | −159.613 |
| OT | 0.000 | 0.115 | −7.763 | −5.685 | −5.657 | −3.381 | −6.843 | −17.297 | −38.036 | −16.409 | −19.226 | −23.908 | −29.330 | −144.204 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 0.000 | 0.000 | −0.920 | −0.320 | −0.320 | −0.320 | −0.320 | −0.320 | −0.320 | −0.320 | −0.320 | −0.320 | −2.200 | −3.800 |
| OT | 0.000 | 0.000 | −0.579 | −0.449 | −0.302 | −0.317 | −0.320 | −0.320 | −0.320 | −0.320 | −0.320 | −0.320 | −1.967 | −3.567 |
| 950—Undistributed Offsetting Receipts: | | | | | | | | | | | | | | |
| BA | −47.806 | −50.513 | −52.926 | −63.411 | −69.375 | −61.259 | −65.185 | −66.882 | −69.937 | −73.259 | −78.640 | −82.068 | −312.156 | −682.942 |
| OT | −47.392 | −50.513 | −52.926 | −63.411 | −69.375 | −61.259 | −65.185 | −66.882 | −69.937 | −73.259 | −78.640 | −82.068 | −312.156 | −682.942 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| OT | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | −47.806 | −50.513 | −52.926 | −63.411 | −69.375 | −61.259 | −65.185 | −66.882 | −69.937 | −73.259 | −78.640 | −82.068 | −312.156 | −682.942 |
| OT | −47.392 | −50.513 | −52.926 | −63.411 | −69.375 | −61.259 | −65.185 | −66.882 | −69.937 | −73.259 | −78.640 | −82.068 | −312.156 | −682.942 |
| 950 on-budget: | | | | | | | | | | | | | | |
| BA | −38.514 | −41.104 | −42.894 | −52.608 | −57.884 | −49.087 | −52.121 | −52.962 | −55.108 | −57.359 | −62.012 | −64.358 | −254.594 | −546.393 |
| OT | −38.514 | −41.104 | −42.894 | −52.608 | −57.884 | −49.087 | −52.121 | −52.962 | −55.108 | −57.359 | −62.012 | −64.358 | −254.594 | −546.393 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| OT | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | −38.514 | −41.104 | −42.894 | −52.608 | −57.884 | −49.087 | −52.121 | −52.962 | −55.108 | −57.359 | −62.012 | −64.358 | −254.594 | −546.393 |
| OT | −38.514 | −41.104 | −42.894 | −52.608 | −57.884 | −49.087 | −52.121 | −52.962 | −55.108 | −57.359 | −62.012 | −64.358 | −254.594 | −546.393 |
| Total: | | | | | | | | | | | | | | |
| BA | 2,085.573 | 2,162.789 | 2,260.114 | 2,390.819 | 2,531.170 | 2,656.404 | 2,782.913 | 2,889.448 | 2,970.900 | 3,125.270 | 3,227.301 | 3,366.670 | 12,621.420 | 28,201.009 |
| OT | 2,010.950 | 2,147.924 | 2,245.894 | 2,371.946 | 2,490.782 | 2,607.468 | 2,733.603 | 2,849.302 | 2,948.361 | 3,105.447 | 3,191.109 | 3,338.397 | 12,449.692 | 27,882.308 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 734.713 | 772.411 | 791.381 | 816.945 | 848.002 | 881.539 | 910.979 | 916.981 | 909.590 | 950.790 | 968.401 | 984.394 | 4,248.847 | 8,979.003 |
| OT | 734.405 | 809.372 | 837.164 | 857.489 | 876.104 | 901.663 | 933.724 | 950.277 | 949.739 | 991.328 | 999.948 | 1,019.939 | 4,406.144 | 9,317.374 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 1,350.860 | 1,390.378 | 1,468.733 | 1,573.874 | 1,683.168 | 1,774.865 | 1,871.933 | 1,972.467 | 2,061.310 | 2,174.480 | 2,258.900 | 2,382.276 | 8,372.573 | 19,222.006 |
| OT | 1,276.545 | 1,338.552 | 1,408.730 | 1,514.457 | 1,614.678 | 1,705.805 | 1,799.879 | 1,899.025 | 1,998.622 | 2,114.119 | 2,191.161 | 2,318.458 | 8,043.549 | 18,564.934 |
| Total on-budget: | | | | | | | | | | | | | | |
| BA | 1,720.248 | 1,794.261 | 1,873.180 | 1,993.944 | 2,123.565 | 2,236.078 | 2,348.462 | 2,438.088 | 2,501.009 | 2,636.500 | 2,714.965 | 2,827.496 | 10,575.229 | 23,693.287 |
| OT | 1,655.288 | 1,781.390 | 1,861.420 | 1,977.898 | 2,086.272 | 2,190.529 | 2,302.923 | 2,402.108 | 2,482.940 | 2,621.537 | 2,684.115 | 2,805.055 | 10,419.041 | 23,414.796 |
| Discretionary: | | | | | | | | | | | | | | |
| BA | 731.209 | 768.599 | 787.124 | 812.607 | 843.578 | 877.017 | 906.341 | 912.189 | 904.636 | 945.669 | 963.109 | 978.923 | 4,226.668 | 8,931.194 |
| OT | 730.499 | 805.534 | 832.957 | 853.188 | 871.695 | 897.158 | 929.107 | 945.511 | 944.815 | 986.237 | 994.688 | 1,014.500 | 4,384.105 | 9,269.855 |
| Mandatory: | | | | | | | | | | | | | | |
| BA | 989.039 | 1,025.662 | 1,086.056 | 1,181.337 | 1,279.987 | 1,359.061 | 1,442.120 | 1,525.899 | 1,596.373 | 1,690.831 | 1,751.856 | 1,848.573 | 6,348.561 | 14,762.093 |
| OT | 924.789 | 975.856 | 1,028.463 | 1,124.710 | 1,214.577 | 1,293.371 | 1,373.816 | 1,456.597 | 1,538.125 | 1,635.300 | 1,689.427 | 1,790.555 | 6,034.937 | 14,144.941 |
| Revenues | 1,853.173 | 1,865.468 | 1,958.615 | 2,153.829 | 2,321.376 | 2,479.341 | 2,619.660 | 2,762.435 | 2,897.122 | 3,102.068 | 3,292.730 | 3,497.075 | 11,532.821 | 27,084.251 |
| Revenues on-budget | 1,337.852 | 1,333.861 | 1,400.789 | 1,566.044 | 1,702.314 | 1,828.213 | 1,935.251 | 2,043.323 | 2,141.398 | 2,309.946 | 2,463.192 | 2,627.425 | 8,432.611 | 20,017.895 |
| Deficit/Surplus | −157.777 | −282.456 | −287.279 | −218.117 | −169.406 | −128.127 | −113.943 | −86.867 | −51.239 | −3.379 | 101.621 | 158.678 | −916.871 | −798.057 |
| On-budget | −317.436 | −447.529 | −460.631 | −411.854 | −383.958 | −362.316 | −367.672 | −358.785 | −341.542 | −311.591 | −220.923 | −177.630 | −1,986.430 | −3,396.901 |
| Off-budget | 159.659 | 165.073 | 173.352 | 193.737 | 214.552 | 234.189 | 253.729 | 271.918 | 290.303 | 308.212 | 322.544 | 336.308 | 1,069.559 | 2,598.844 |
| Notes and Miscellaneous Info: | | | | | | | | | | | | | | |
| Revenues: | | | | | | | | | | | | | | |
| On-budget | 1,337.852 | 1,333.861 | 1,400.789 | 1,566.044 | 1,702.314 | 1,828.213 | 1,935.251 | 2,043.323 | 2,141.398 | 2,309.946 | 2,463.192 | 2,627.425 | 8,432.611 | 20,017.895 |
| Off-budget | 515.321 | 531.607 | 557.826 | 587.785 | 619.062 | 651.128 | 684.409 | 719.112 | 755.724 | 792.122 | 829.538 | 869.650 | 3,100.210 | 7,066.356 |
| Outlays: | | | | | | | | | | | | | | |
| On-budget: | | | | | | | | | | | | | | |
| BA | 1,720.248 | 1,794.261 | 1,873.180 | 1,993.944 | 2,123.565 | 2,236.078 | 2,348.462 | 2,438.088 | 2,501.009 | 2,636.500 | 2,714.965 | 2,827.496 | 10,575.229 | 23,693.287 |
| OT | 1,655.288 | 1,781.390 | 1,861.420 | 1,977.898 | 2,086.272 | 2,190.529 | 2,302.923 | 2,402.108 | 2,482.940 | 2,621.537 | 2,684.115 | 2,805.055 | 10,419.041 | 23,414.796 |
| Off-budget: | | | | | | | | | | | | | | |
| BA | 365.325 | 368.528 | 386.934 | 396.875 | 407.605 | 420.326 | 434.451 | 451.360 | 469.891 | 488.770 | 512.336 | 539.174 | 2,046.191 | 4,507.722 |
| OT | 355.662 | 366.534 | 384.474 | 394.048 | 404.510 | 416.939 | 430.680 | 447.194 | 465.421 | 483.910 | 506.994 | 533.342 | 2,030.651 | 4,467.512 |

FUNCTIONS AND REVENUES

Pursuant to section 301(a)(3) of the Budget Act, the budget resolution must set appropriate levels for each major functional category based on the 302(a) allocations and the budgetary totals.

The respective levels of the House resolution, the Senate amendment, and the Conference Agreement for each major budget function and revenue totals are discussed in the following section. The Conference Agreement provides aggregate discretionary spending in 2004 of $784.460 billion in budget authority (BA) and $860.752 billion in outlays.

These two aggregate numbers are allocated to the Appropriations Committees to be suballocated to their 13 individual appropriation subcommittees.

REVENUE

The component of the budget resolution classified as revenue reflects all of the Federal Government's various tax receipts that are classified as ''on-budget.'' This includes individual income taxes; corporate income taxes; excise taxes, such as the gasoline tax; various other taxes, such as estate and gift taxes; and social insurance taxes, except for Social Security. Customs duties, tariffs, and other miscellaneous receipts also are included in the revenue function.

Social insurance taxes collected for the Social Security system—the Old Age and Survivors and Disability Insurance [OASDI] payroll tax—are off budget. The remaining social insurance taxes (the Hospital Insurance [HI] payroll tax portion of Medicare, the Federal Unemployment Tax Act [FUTA] payroll tax, railroad retirement, and other retirement systems) are all on budget. Pursuant to the Congressional Budget Act of 1974 and the Budget Enforcement Act of 1990,

Social Security payroll taxes, which constitute slightly more than a quarter of all Federal receipts, are not reflected in the budget resolution.

*House Resolution*

The House resolution calls for on-budget revenue of $1.32 trillion in fiscal year 2003; $1.35 trillion in 2004; $8.23 trillion from 2004 through 2008; and $19.48 trillion from 2004 through 2013. When off-budget Social Security taxes are added, total revenue is estimated to be $1.86 trillion in fiscal year 2003, $1.91 trillion in 2004, $11.33 trillion over the next 5 years, and $26.55 trillion over the next 10 years.

The resolution directs the Committee on Ways and Means to report legislation to the House floor by 11 April 2003, making adjustments in current law to effect a reduction in revenue of $35.4 billion in 2003; $112.8 billion in 2004; $387.7 billion from 2004 through 2008; and $698.3 billion in 2003–2013. This ''reconciles'' an economic growth and job creation plan similar to the President's under the expedited reconciliation rules of the Budget Act. (Also reconciled to the Ways and Means Committee is $27.5 billion in new mandatory spending authority to cover the refundable component of an accelerated increase in the child tax credit.)

The resolution also assumes the permanent extension of the expiring tax cuts in the Economic Growth and Tax Relief Reconciliation Act of 2001 that otherwise will expire in 2010. This will reduce revenue over 11 years by $601.9 billion below the baseline. This adjustment is not reconciled.

Finally, the budget accommodates, but does not reconcile, $49.9 billion in additional tax relief over the next 11 years. Policies would be determined by the Committee on Ways and Means, but could include incentives for charitable giving, affordable single-family housing, and energy production, conservation, and reliability; simplifying the tax laws; and other House policies. Tariff and other revenue effects of various trade initiatives are also possible.

*Senate Amendment*

The Senate amendment assumes an overall reduction in revenues of $802.2 billion over the 11–year period, 2003–13. The Senate amendment instructs the Finance Committee to report legislation by 8 April 2003 to reduce revenues by $322.5 billion over 2003–2013 and to increase direct spending related to tax policy changes by $27.5 billion over 2003–13 (reflected in Function 600). The Senate amendment assumes, but does not reconcile, an additional $479.6 billion in tax relief over 11 years with a related, but unreconciled, increase in direct spending (related to tax policy changes) of $22.3 billion over 11 years (reflected in Function 600).

The Committee-reported resolution reconciled the Finance Committee for a reduction in revenues and an increase in outlays consistent with President Bush's jobs and growth tax relief plan. The President's plan provides tax relief of $698 billion over the 2003–13 period. It includes three main components: tax relief for working families (by speeding up individual income tax marginal rate reductions already in law, accelerating marriage penalty relief already in law, increasing the child credit immediately to $1,000, and increasing the alternative minimum tax exemption amount); elimination of the double taxation of dividends; and a permanent increase in small business expensing. Since the child credit is partially refundable, the Committee-reported resolution assumed outlay increases sufficient to accommodate the President's growth plan—$27.5 billion in new spending over the next 11 years.

During consideration of the Committee-reported resolution, the Senate adopted several amendments that had the combined effect of reducing the revenue reconciliation instruction to the Finance Committee to $322.5 billion over 11 years.

The Committee-reported resolution assumed, but did not reconcile, the permanent extension of the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 [EGTRRA], which are currently scheduled to expire after 2010. The 11-year tax relief assumption for the EGTRRA extensions is $601.9 billion, with $592.6 billion of the revenue loss (98 percent) occurring in years 2011–13. The permanent extension of the EGTRRA provisions also results in an increase in direct spending of $22.3 billion over 11 years. The Committee-reported resolution also assumed, but did not reconcile, about $13 billion in tax relief over 11 years from several measures expected to be considered in the upcoming year.

During the Senate's consideration of the Committee-reported resolution, the Senate adopted eight amendments affecting the amount of tax relief assumed outside of reconciliation. The Senate adopted one amendment providing for $45 billion in additional tax relief consistent with making the repeal of the estate tax permanent beginning in 2009. The Senate also adopted seven amendments that reduced the level of tax relief assumed outside of reconciliation by $181 billion. The Committee-reported resolution assumed $614.7 billion of tax relief outside of reconciliation; the Senate amendment assumes $478.7 billion of tax relief outside of reconciliation.

*Conference Agreement*

The Conference Agreement calls for a jobs and growth plan with goals similar to the President's proposal: supporting broad, sustained economic growth and job creation.

With these goals, the Conference Agreement assumes $626 billion over the 2003–13 period for tax relief and associated outlays for a jobs and growth plan. The Agreement directs the Senate Finance Committee to report legislation by 8 May 2003 to reduce revenue by $522.524 billion over 2003–2013, and to increase direct spending related to tax policy changes by $27.476 billion over 2003–2013 (reflected in function 600). The Agreement also directs the House Ways and Means Committee to report legislation by 30 May 2003 to reduce revenue by $535.0 billion over 2003–13, and to increase direct spending related to tax policy changes by $15.0 billion over 2003–2013.

The Conference Agreement assumes, but does not reconcile, an additional $690.9 billion in tax relief over 11 years, and associated increases in direct spending. The assumed additional tax relief could accommodate the permanent extension of the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 [EGTRRA], the tax provisions of energy policy legislation, the revenue impacts of trade legislation, and several miscellaneous tax provisions proposed by the President or Congress.

NATIONAL DEFENSE: FUNCTION 050

*Function Summary*

The National Defense function includes funds to develop, maintain, and equip the military forces of the United States. More than 95 percent of the funding in this function goes to Department of Defense [DOD] military activities. The function also includes pay and benefits for military and civilian personnel; research, development, testing, and evaluation; procurement of weapon systems; military construction and family housing; and operations and maintenance of the defense establishment. The remaining funding in the function is for atomic energy defense activities of the Department of Energy, and other defense-related activities.

*House Resolution*

The House resolution calls for $400.6 billion in BA and $400.9 billion in outlays in fiscal year 2004, an increase of 2.0 percent in BA compared with fiscal year 2003. The function totals are $2,202.1 billion in BA and $2,142.7 billion in outlays over 5 years; and $4,814.0 billion in BA and $4,704.4 billion in outlays over 10 years.

The BA and outlay funding levels for National Defense will support critical military and homeland security initiatives, and are consistent with the President's recommendations. The resolution assumes $70 million in additional mandatory BA to permit proceeds from facilities that were acquired, constructed, or improved with commissary surcharges or nonappropriated funds, and that were closed under Base Realignment and Closure authority, to be reapplied to nonappropriated fund activities without an appropriation.

*Senate Amendment*

For discretionary programs, the Senate amendment assumes the President's request for National Defense in 2004 totalling $400.1 billion in BA and $400.6 billion in outlays for 2004. This is an increase of $7.9 billion in BA (2.0 percent) and $14.2 billion in outlays (3.7 percent) from the 2003 level.

For 2003, the Committee-reported resolution assumed the full-year appropriations already enacted. An amendment to the resolution adopted by the Senate assumed an increase of $3.0 billion in BA and outlays in 2003 to provide pay and benefits for active duty, National Guard and Reserve forces, and to modernize National Guard and Reserve equipment and weapons.

For defense activities in the Department of Defense only, the Senate amendment assumes $380.8 billion in discretionary BA in

2004, an increase of $6.2 billion (1.6 percent) above the 2003 level of $374.6 billion.

Within DOD, the Senate amendment assumes $231.9 billion in discretionary BA for readiness accounts (military personnel and operations and maintenance) in 2004. This represents an increase of $2.4 billion in BA (1.0 percent) above the 2003 level of $229.5 billion. These appropriations would support an active duty end strength of 1,388,100 and a Selected Reserves strength of 863,000. It would also support pay raises ranging from 2.0 percent to 6.3 percent, targeted by rank and years of service.

The Senate amendment also assumes $136.2 billion for investment accounts (procurement and research, development, testing, and evaluation) in 2004. This represents an increase of $4.8 billion in BA (3.9 percent) above the 2003 appropriated level of $131.4 billion. Major purchases include a Virginia Class submarine, 3 DDG–51 destroyers, 42 F/A–18E/F fighter aircraft, and 22 F–22 fighter aircraft.

For military construction and family housing, the Senate amendment assumes $9.1 billion in discretionary budget authority for 2004 representing a 13.8–percent decrease from the 2003 level of $10.5 billion.

During floor consideration, the Senate adopted an amendment that would allow the Appropriations Committee to provide up to $100 billion for the costs associated with disarming Iraq.

For defense activities in the Department of Energy, the Senate amendment assumes $16.9 billion in discretionary BA in 2004, representing an increase of $1.1 billion (6.9 percent) above the 2003 enacted level of $15.8 billion.

The Senate amendment assumes $8.8 billion in discretionary BA for the National Nuclear Security Administration in 2004, representing an increase of $796 million (10.0 percent) above the 2003 enacted level of $8.0 billion.

The Senate amendment assumes $7.7 billion in discretionary BA for the Department of Energy's environmental and other defense activities in 2004, representing an increase of $185 million (2.5 percent) above the 2003 enacted level of $7.6 billion.

The Senate-reported resolution assumed no mandatory increases or decreases in this function. Of note, the Senate-reported amendment assumed full funding for the so-called the Purple Heart Plus program, which was included in last year's Defense Authorization Act. The provision allows all disabled military retirees whose disabilities are a direct result of combat, and those most severely disabled (60 percent or greater) military retirees whose disabilities are a direct result of combat-related injury, to receive their full military retirement pay as well as a special compensation equal to the amount of veterans' disability compensation without offset. The Senate amendment reflects an amendment to the Committee- reported resolution adopted by the Senate to cover the incremental mandatory cost of phased-in concurrent receipt of retirement pay and disability for all veterans with service-related disabilities rated at 60 percent or higher ($182 million in BA and outlays in 2004, and $12.8 billion in BA and outlays over the 2004–13 period).

*Conference Agreement*

The Conference Agreement assumes enactment of the fiscal year 2003 supplemental appropriations bill for addressing the conflict in Iraq. The provision allows an adjustment for the finally enacted level.

The Agreement calls for function totals of $400.5 billion in BA and $400.9 billion in outlays for fiscal year 2004; $2,202.1 billion in BA and $2,142.7 billion in outlays over 5 years; and $4,758.2 billion in BA and $4,658.3 billion in outlays over 10 years.

The discretionary levels in this function are consistent with the President's request. The levels will support military forces capable of prevailing decisively in the near term, and accommodate the military's longer-term transformation goals.

INTERNATIONAL AFFAIRS: FUNCTION 150

*Function Summary*

As part of the Global War on Terrorism, the Department of State and international assistance programs play a vital role in maintaining and expanding support of the international coalition against terrorism. Funds distributed through the International Affairs function provide for international development and humanitarian assistance; international security assistance; the conduct of foreign affairs; foreign information and exchange activities; and international financial programs. The major departments and agencies in this function include the Department of State, the Department of the Treasury, and the United States Agency for International Development [USAID].

*House Resolution*

The budget resolution calls for $24.8 billion in BA and $23.7 billion in outlays in fiscal year 2004, an increase of 9.8 percent in BA compared with fiscal year 2003. The function totals are $149.9 billion in BA and $128.9 billion in outlays over 5 years, and $326.6 billion in BA and $283.5 billion in outlays over 10 years.

The House resolution calls for $2 billion as the first installment toward the President's Emergency Plan for AIDS Relief, a 5–year, $15–billion initiative to turn the tide in the global effort to combat the HIV/AIDS pandemic. This initiative—funded through USAID, the Department of Health and Human Services, and the Centers for Disease Control—virtually triples U.S. funding to fight the international AIDS pandemic. The resolution also recommends funds sufficient for the President's proposal to create a new Government corporation—the Millennium Challenge Corporation—to administer a $1.3 billion fund designed to promote just governance and sound free-market economic policies in International Development Association-eligible countries (with yearly per-capita incomes below $1,435).

*Senate Amendment*

For discretionary programs, the Senate amendment assumes the President's request for 2004 totaling $28.7 billion in BA and $26.8 billion in outlays. This represents an increase of $3.2 billion in BA (12.8 percent) and $0.8 billion in outlays (3.0 percent) from the 2003 level.

The Senate amendment assumes $12.5 billion in discretionary BA for International Development and Humanitarian Assistance, an increase of $2.1 billion (20.1 percent) above the 2003 appropriated level of $10.4 billion. Within International Development and Humanitarian Assistance, the Senate amendment assumes a new development assistance organization, called the Millennium Challenge Corporation, with an initial funding level of $1.3 billion for 2004 and $14.3 billion over 2004–13. The Senate amendment also assumes a new Global AIDS Initiative ($450 million in 2004 and $22.3 billion over 10 years), and a new fund for dealing with famine ($200 million in 2004, and $2.2 billion over 10 years).

The Senate amendment assumes $7.6 billion in discretionary BA for International Security Assistance, an increase of $0.9 billion (13.2 percent) above the 2003 appropriated level of $6.7 billion. Within International Security Assistance, the Senate amendment assumes the creation of a new fund to deal with Complex Foreign Crises, with initial funding of $100 million for 2004.

The Senate amendment assumes $7.5 billion in discretionary BA for the Conduct of Foreign Affairs, an increase of $636 million (9.2 percent) above the 2003 appropriated level of $6.9 billion. The Senate amendment also assumes $983 million in discretionary BA for Foreign Information and Exchange Activities, an increase of $152 million (18.3 percent) above the 2003 appropriated level of $831 million.

The Senate amendment assumes no mandatory increases or decreases in this function.

*Conference Agreement*

The Conference Agreement calls for $25.7 billion in BA and $24.2 billion in outlays in fiscal year 2004; $155.9 billion in BA and $133.7 billion in outlays over 5 years; and $341.6 billion in BA and $296.4 billion in outlays over 10 years. The Conference Agreement fully accommodates the President's request for this function. This includes funding for the President's Millennium Challenge Corporation initiative and the Global AIDS Initiative.

GENERAL SCIENCE, SPACE, AND TECHNOLOGY: FUNCTION 250

*Function Summary*

Function 250 consists of General Science, Space and Technology programs. The largest component of this function—about two-thirds of total spending—is for the space flight, research, and supporting activities of the National Aeronautics and Space Administration [NASA]. The function also reflects general science funding, including the budgets for the National Science Foundation [NSF], and the fundamental science programs of the Department of Energy [DOE].

*House Resolution*

The House resolution calls for $22.8 billion in BA and $22.3 billion in outlays in fiscal year 2004, a decrease of 1.6 percent in BA compared with fiscal year 2003. The function totals are $121.8 billion in BA and $118.7 billion in outlays over 5 years; and $260.8 billion in BA and $254.1 billion in outlays over 10 years.

*Senate Amendment*

For discretionary programs the Senate amendment assumes a discretionary total of $23.6 billion in BA and $22.6 billion in outlays for 2004. This represents an increase of $0.5 billion (2.3 percent) in BA and $1.2 billion (5.5 percent) in outlays from the 2003 level. The Senate amendment includes the following specific assumptions.

For NASA, the Senate amendment assumes funding the President's request of $14.5 billion for Function 250 activities (this excludes NASA aeronautics funding that falls in Function 400). Included is $6.7 billion for Science, Aeronautics, and Exploration and $7.8 billion for Space Flight Capabilities. The President's request of $4.0 billion (on a full-cost basis) is assumed for the Space Shuttle.

The Senate amendment assumes funding the President's request of $5.4 billion in discretionary funding for National Science Foundation activities, a 3.2 percent increase over the 2003 level.

For Department of Energy science programs, the Senate amendment assumes a $100 million increase over the President's request, bringing total funding for DOE science programs to $3.4 billion in 2004, a 4.6 percent increase over the 2003 level.

The Senate amendment includes $273 million for the Department of Homeland Security in 2004. These funds support the advance of homeland security through scientific research.

The Senate amendment assumes no mandatory increases or decreases in this function.

*Conference Agreement*

The Conference Agreement for Function 250 calls for $23.9 billion in BA and $22.8 billion in outlays in fiscal year 2004. The functional totals are $126.5 billion in BA and $122.3 billion in outlays over 5 years, and $270.5 billion in BA and $262.2 billion in outlays over 10 years. The Agreement accommodates an increase of $324 million above the administration's request for NSF research and related activities. The Agreement also supports a $100 million increase over the administration's request for DOE science programs.

ENERGY: FUNCTION 270

*Function Summary*

The Energy function reflects civilian energy and environmental activities and programs of the Federal Government. Through this function, spending is provided for energy supply programs, such as solar and renewable, fossil and nuclear research at the Department of Energy [DOE]; rural electricity and telecommunications loans, administered through the Rural Utilities Service of the Department of Agriculture; electric power generation and transmission programs of the Power Marketing Administrations (the Southeastern Power Administration, the Southwestern Power Administration, the Western Area Power Administration, and the Bonneville Power Administration); and power generation and transmission programs of the Tennessee Valley Authority. This function also provides funds for energy conservation programs; emergency energy preparedness (mainly the Strategic Petroleum Reserve); and energy information, policy, and regulation programs, including spending by the Office of the Secretary of Energy and the operations of the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission and the U.S. Enrichment Corporation.

Function 270 does not include DOE's national security activities—the National Nuclear Security Administration—which are in Function 050 (Defense), or its basic research and science activities, which are in Function 250 (General Science, Space, and Technology).

*House Resolution*

The House resolution calls for $2.6 billion in BA and $0.9 billion in outlays in fiscal year 2004, an increase of 25 percent in BA compared with fiscal year 2003. The function totals are $13.3 billion in BA and $5.6 billion in outlays over 5 years, and $29.3 billion in BA and $15.6 billion in outlays over 10 years.

Pursuant to the Homeland Security Act of 2002, the functions of the National Simulation and Analysis Center and the energy security and assurance programs of the Department of Energy are transferred to the new Department's Directorate of Information Analysis and Infrastructure Protection.

The resolution accommodates resources outside the Department of Homeland Security necessary for certain aspects of homeland security. A sum of $619 million is assumed in fiscal year 2004 for the Nuclear Regulatory Commission to continue to review and strengthen NRC's physical facilities and information technology infrastructure to enhance nuclear plant security. Of this amount, $572 million is provided by fees and receipts.

*Senate Amendment*

The Senate amendment assumes spending in this function would total $2.6 billion in BA and $0.9 billion in outlays for 2004. This represents an increase of $0.6 billion in BA (7 percent), and $0.4 billion in outlays from the 2003 level. The Senate amendment includes the following specific assumptions.

For discretionary programs, the Senate amendment assumes a total of $3.7 billion in BA and $3.6 billion in outlays for 2004. This represents an increase of $0.4 billion (13 percent) in BA above the 2003 level.

The Senate amendment assumes $881 million for non-defense environmental management activities. This is an increase of $213 million, or 32 percent, above the 2003 enacted level. (An additional $6.3 billion for environmental management activities is included in Function 050.)

The Senate amendment assumes $802 million for Energy Supply activities. This is $106 million (15 percent) above the 2003 enacted level. This increase includes funding for the President's Freedom Fuel Initiative, which would help reverse America's growing dependence on foreign oil, by providing funds for research for a commercially viable hydrogen-powered fuel cell technology.

The Senate amendment assumes no mandatory increases or decreases in this function.

*Conference Agreement*

The Conference Agreement for Function 270 calls for $2.6 billion in BA and $0.9 billion in outlays in fiscal year 2004. The functional totals are $13.8 billion in BA and $5.6 billion in outlays over 5 years, and $30.3 billion in BA and $15.7 billion in outlays over 10 years. The Conference Agreement fully supports the President's budget request for this function.

NATURAL RESOURCES AND ENVIRONMENT: FUNCTION 300

*Function Summary*

Programs within Function 300 consist of water resources, conservation, land management, pollution control and abatement, and recreational resources. Major departments and agencies in this function are the Department of Interior, including the National Park Service [NPS], the Bureau of Land Management [BLM], the Bureau of Reclamation, and the Fish and Wildlife Service [FWS]; conservation-oriented and land management agencies within the Department of Agriculture [USDA] including the Forest Service; the National Oceanic and Atmospheric Administration [NOAA] in the Department of Commerce; the Army Corps of Engineers; and the Environmental Protection Agency [EPA].

*House Resolution*

The House resolution calls for $29.2 billion in BA and $29.9 billion in outlays in fiscal year 2004. The function totals are $154.1 billion in BA and $154.4 billion in outlays over 5 years, and $331.0 billion in BA and $327.9 billion in outlays over 10 years.

The resolution assumes legislation allowing the Bureau of Land Management to use updated management plans to identify publicly owned areas suitable for sale; the permanent extension of the Recreation Fee Program, which allows parks, refuges, forests, and other publicly-owned units to spend fees within the units from which they are collected; legislation to prevent the United Mine Workers of America Combined Benefit Fund from financial crisis by transferring to it any additional interest from the Abandoned Mine Land Reclamation Fund; the Water Resources Development Act of 2002, which authorizes the Corps of Engineers to conduct water resource studies and undertake specified projects and programs for flood control, inland navigation, shoreline protection, and environmental restoration; and the Central Utah Project [CUP] Completion Act, which clarifies and streamlines completion of project goals. The CUP provides water for agricultural, industrial, and municipal uses.

*Senate Amendment*

The Senate amendment assumes spending in this function of $35.3 billion in BA and $31.4 billion in outlays for 2004. This represents an increase of $4.4 billion in BA (14 percent), and $2.4 billion in outlays from the 2003 level. The Senate amendment includes the following specific assumptions.

For discretionary programs, the Senate amendment assumes a total of $32.8 billion in BA and $29.5 billion in outlays for 2004. This represents an increase of $3.6 billion (12 percent) in BA above the 2003 level.

The Senate amendment assumes $3.1 billion for the National Fire Plan, which is $880 million above the President's request. This reflects an amendment to the resolution adopted by the Senate that added $500 million to the National Fire Plan. The Senate believes it is critical to fund the National Fire Plan at a realistic level that will allow the Forest Service and Department of Interior to pay for wildfire suppression, while maintaining its ongoing operations.

The Senate amendment assumes $900 million for the Land and Water Conservation Fund [LWCF], the same as the President's budget.

The Senate amendment assumes $11.3 billion for the Environmental Protection Agency. This is $3 billion (36 percent) above the 2003 enacted level. The Senate did not accept the President's cut to the State and Tribal Assistance Grants, instead funding them at $6.8 billion, which is $3 billion more than the 2003 enacted level. (This increase to the State and Tribal Assistance Grants is due to an amendment adopted by the Senate, which added $3 billion in 2004 to the Clean Water and Safe Drinking Water State Revolving Fund.) Within the EPA, there is $1.4 billion for Superfund, which is $125 million or 9.9 percent more than the 2003 enacted level. The Senate amendment also includes $2.2 billion for environmental programs and management. This is $122 million, or 5.8 percent, more than the 2003 enacted level.

The Senate amendment assumes $4.5 billion for the Corps of Engineers, the same as the 2003 level, and $546 million more than the President's request. It does not include the President's proposal to fund operations and maintenance and construction from the Inland Waterways Trust Fund or from the Harbor Maintenance Trust Fund.

The Senate amendment assumes the President's proposal to make the Recreation Fee Demonstration Program permanent. This program allows the Forest Service and Department of Interior to collect entrance fees and use a portion of those fees without further appropriation for maintenance and other projects. Over 10 years, this program would have a net cost of $803 million.

The Senate amendment reflects the administration's proposal for the Federal Land Transaction Facilitation Act. This proposal would allow the Bureau of Land Management to use updated management plans to identify property suitable for disposal as well as allow a certain portion of receipts to be used by the BLM for restoration projects. It would cap receipt retention at $100 million per year. The proposal costs $86 million over 10 years.

The Senate amendment assumes $3.4 billion over 10 years for the Conservation Security Program in the Department of Agriculture.

*Conference Agreement*

The Conference Agreement calls for $31.6 billion in BA and $30.8 billion in outlays in fiscal year 2004. The function totals are $164.5 billion in BA and $161.9 billion in outlays over 5 years, and $348.3 billion in BA and $342.4 billion in outlays over 10 years.

For discretionary programs, the Conference Agreement provides for a total of $29.3 billion in BA and $29.0 billion in outlays in fiscal year 2004.

The Conference Agreement recognizes the importance of the National Fire Plan and calls for $2.6 billion for the plan, $380 million above the President's request. The Congress believes it is critical to fund the National Fire Plan at a level that will allow the Forest Service and the Department of the Interior to pay for wildfire suppression, while maintaining their normal operations. In particular, Congress places a priority on wildfire suppression; rehabilitation and restoration of areas burned during recent fire seasons; and the reduction of hazardous fuels, which will help prevent wildfires in the future.

The Conference Agreement accommodates $8.3 billion for the Environmental Protection Agency, $250 million greater than the 2003 enacted level. The Congress restored funding for the State and Tribal Assistance Grants to $3.8 billion, the same as the 2003 enacted level. Within the EPA, there is $1.4 billion for Superfund, which is $125 million (9.9 percent) more than the 2003 enacted level; and $2.2 billion for environmental programs and management, which is $122 million (5.8 percent) more than the 2003 enacted level.

The Conference Agreement also accommodates the Senate's $4.5 billion for the Corps of Engineers.

For mandatory programs, the Agreement assumes the President's proposal allowing the Forest Service and Department of Interior to collect entrance fees and use a portion of those fees for maintenance and other projects without further appropriation. It also assumes an amendment allowing the Bureau of Land Management [BLM] to use updated management plans to identify property suitable for disposal, as well as permit a certain portion of receipts to be used by the BLM for restoration projects. The Agreement also assumes $3.4 billion over 10 years for the Conservation Security Program in the Department of Agriculture; legislation passed in the House last year to authorize the Army Corps of Engineers to conduct water resource studies and undertake specific projects and programs for flood control, inland navigation, shoreline protection, and environmental restoration; and enactment of the Central Utah Project Completion Act, which passed in the House last year.

AGRICULTURE: FUNCTION 350

*Function Summary*

The Agriculture function includes funds for direct assistance and loans to food and fiber producers, export assistance, market information, inspection services, and agricultural research. Farm policy is driven by the Farm Security and Rural Investment Act of 2002, which provides producers with continued planting flexibility while protecting them against unique uncertainties such as poor weather conditions and unfavorable market conditions.

*House Resolution*

The House resolution calls for $24.0 billion in BA and $23.4 billion in outlays in fiscal year 2004. The function totals are $125.1 billion in BA and $121.5 billion in outlays over 5 years, and $240.8 billion in BA and $237.1 billion in outlays over 10 years.

Included in these funding levels is the continuation of the 2002 farm bill.

*Senate Amendment*

The Senate amendment assumes spending in this function would total $24.5 billion in BA and $23.5 billion in outlays for 2004. This represents an increase of $39 million in BA over the 2003 level.

For discretionary programs, the Senate amendment assumes a total of $5.2 billion in BA and $5.6 billion in outlays for 2004. This represents a decrease of $0.5 billion or 8.5 percent in BA from the 2003 level.

The Senate amendment assumes the President's request that several mandatory agriculture programs will provide discretionary savings of $321 million in 2004 and $1.1 billion over 10 years.

The Senate amendment also assumes a decrease of $1.4 billion over 10 years in the mandatory programs administered by the Department of Agriculture.

*Conference Agreement*

The conference agreement calls for $24.6 billion in BA and $23.7 billion in outlays in fiscal year 2004. The function totals are $130.2 billion in BA and $124.5 billion in outlays over 5 years, and $255.7 billion in BA and $245.8 billion in outlays over 10 years. Included in these funding levels is the continuation of the 2002 Farm Bill. The Conference Agreement fully supports the President's overall request for this function.

COMMERCE AND HOUSING CREDIT: FUNCTION 370

*Function Summary*

Function 370 includes four components: mortgage credit (usually negative BA because receipts tend to exceed the losses from defaulted mortgages); the Postal Service (mostly off budget); deposit insurance (negligible spending due to deposit insurance premiums); and other advancement of commerce (the majority of the discretionary and mandatory spending in this function).

The mortgage credit component of this function includes housing assistance through the Federal Housing Administration [FHA], the Government National Mortgage Association [Ginnie Mae], and rural housing programs of the Department of Agriculture. The function also includes net Postal Service spending and spending for deposit insurance for banks, thrifts, and credit unions. Finally, most, but not all, of the Commerce Department is provided for in this function including the International Trade Administration, Bureau of Economic Analysis, Patent and Trademark Office, National Institute of Standards and Technology, National Telecommunications and Information Administration, and the Bureau of the Census; as well as independent agencies such as the Securities and Exchange Commission [SEC], the Commodity Futures Trading Commission, the Federal Trade Commission, the Federal Communications Commission [FCC], and the majority of the Small Business Administration [SBA].

More than two-thirds of the spending in Function 370 is out of the FCC's Universal Service Fund. Spending from this fund exactly offsets the receipts (classified as taxes on the revenue side of the budget) that certain telecommunications operators charge their customers to promote service to low-income users and high-cost areas, as well as new services.

*House Resolution*

The House resolution calls for $7.4 billion in BA and $3.6 billion in outlays in fiscal year 2004, a decline of 16 percent in BA compared with fiscal year 2003. The function totals are $42.0 billion in BA and $16.5 billion in outlays over 5 years, and $86.8 billion in BA and $26.6 in outlays over 10 years.

For the Department of Homeland Security, $21 million is provided for Departmentwide technology investments, as is $9 million for the Critical Infrastructure Assurance Office under Information Analysis and Infrastructure Protection.

The resolution assumes other funding for homeland security purposes of the Commerce Department, including: $83.9 million for the Bureau of Industry and Security to inhibit the global spread of dual-use technologies that could be used in biological, chemical, and nuclear weapons of mass destruction (formerly the Bureau of Export Administration); $10.3 million for the National Institute of Standards and Technology; and $3.7 million for the International Trade Administration.

*Senate Amendment*

For discretionary programs, the Senate amendment assumes discretionary spending in this function would total −$0.5 billion in BA and $0.1 billion in outlays for 2004. This represents a decrease of $0.6 billion in BA, but an increase of $38 million in outlays from the 2003 level. The Senate amendment includes the following specific assumptions.

The Senate amendment for 2004 reflects all the President's requested increases over 2003 (shown as percentage increase) for export control and enforcement (47 percent), the activities of the Census Bureau (20 percent), economic and statistical analysis (18-percent), and homeland security investments in the Department of Commerce (43 percent). The Senate amendment also assumes the President's request of $842 million (an 18–percent increase) for the Securities and Exchange Commission to implement the corporate responsibility activities under the Sarbanes-Oxley bill.

The President's budget proposes to eliminate the Advanced Technology Program, which would save $0.7 billion over the next 10 years and is reflected in the Senate amendment. The President's proposal to discontinue the Manufacturing Extension Program, however, is not assumed by the Senate amendment.

For mandatory programs, the Senate amendment assumes the President's proposal to merge the deposit insurance funds for banks and thrifts—the Bank Insurance Fund and the Savings Association Insurance Fund. According to CBO estimates, this proposal would be nearly budget neutral over the next 10 years.

The Senate amendment also assumes legislation (S. 380, as cleared for the President on 8 April 2003) that would reduce the Postal Service payment to the Civil Service Retirement [CSRS] trust fund for 2003–05, but then would reinstate and redirect the payment to an escrow fund until Congress can enact subsequent law regarding how the Postal Service should address its retiree health liabilities and other concerns. This proposal would increase the unified deficit by $7.3 billion over the 2003–13 period. The budgetary effect on the Postal Service is reflected in this function, and the effect on the receipts of the CSRS fund are shown in Function 950 (a small interest effect appears in Function 900).

*Conference Agreement*

The Conference Agreement calls for on-budget amounts as follows: $7.5 billion in BA and $3.6 billion in outlays in fiscal year 2004; $41.9 billion in BA and $15.6 billion in outlays over 5 years; and $84.3 billion in BA and $21.5 billion in outlays over 10 years. For mandatory programs, the agreement assumes a merger of the Bank Insurance Fund and the Savings Association Insurance Fund; legislation to pay interest on bank deposits with the Federal Reserve; and regulatory relief for certain financial services companies. For discretionary programs, the Agreement is consistent with the Senate amendment.

TRANSPORTATION: FUNCTION 400

*Function Summary*

This function funds all major Federal transportation modes and programs including the Transportation Security Administration; the Federal Highway Administration; the Federal Transit Administration; the National Rail Passenger Corporation [Amtrak]; highway, motor carrier and rail safety programs; the Federal Aviation Administration; the aeronautical activities of the National

Aeronautics and Space Administration [NASA]; the Coast Guard; the Maritime Administration; and other transportation support activities.

*House Resolution*

The House resolution calls for $65.4 billion in BA and $69.2 billion in outlays in fiscal year 2004, an increase of 2.1 percent in BA compared with fiscal year 2003. Function totals are $334.2 billion in BA and $338.2 billion in outlays over 5 years, and $698.9 billion in BA and $700.8 billion in outlays over 10 years.

The resolution assumes an increase in Federal-aid Highway contract authority and obligation limitation from $32.1 billion in 2004 to $39.0 billion in 2013; a freeze of Transit Category contract authority and obligation limitation at $5.7 billion; transfer of the receipts from the 2.5-cent gasohol deficit reduction tax from the General Fund to the Highway Trust Fund; and establishment of a contingency procedure to increase spending above the level in the budget resolution on highways, highway safety, and transit should additional resources be made available to the Highway Trust Fund.

*Senate Amendment*

For Function 400, the Senate amendment includes $75.8 billion in BA and $71.6 billion in outlays for 2004. This represents an increase of $11.7 billion in BA, or 18 percent.

The Senate amendment includes major increases in the Federal-aid Highways program, reflecting an amendment adopted by the Senate that set contract authority at levels that cannot be sustained with trust fund receipts under current law. For 2004, the Senate amendment assumes an obligation limitation of $35.6 billion, an 11-percent increase from the Committee-reported resolution of $32.1 billion and contract authority of $39.3 billion, a 29-percent increase from the Committee-reported resolution of $30.5 billion.

For 2004–09, the Senate amendment includes $233.3 billion in obligation limitation, a 20-percent increase from the Committee-reported resolution of $194.4 billion and the amendment includes contract authority of $255.7 billion, a 24-percent increase in the Committee-reported resolution of $206.5 billion.

For Essential Air Service, the Senate amendment assumes $103 million for 2004, which is $53 million above the President's request.

For Port Security, the Senate amendment included $850 million in 2004, and $850 million in 2005 due to an amendment adopted on the floor.

For the Coast Guard, the Senate amendment assumes the President's request of $6.1 billion, the same as the 2003 enacted level. This request would recapitalize much of the Coast Guard's budget which was diverted for more urgent needs, following September 11, 2001.

The Senate amendment assumes full funding for the President's request for NASA programs within this function at $993 million, a 20-percent increase from the enacted 2003 level.

The Senate amendment includes $1.8 billion for Amtrak, a 100-percent increase over the committee-passed resolution of $900 million due to an amendment adopted on the Senate floor that added $912 million.

*Conference Agreement*

The Conference Agreement calls for $69.5 billion in BA and $69.9 billion in outlays in fiscal year 2004; $364.7 billion in BA and $354.9 billion in outlays over 5 years; and $759.9 billion in BA and $745.8 billion in outlays over 10 years.

The Conference Agreement provides contract authority for Federal-aid highways of $35.482 billion in 2004, and $231.078 billion for 2004–09, representing a compromise midway between the House- and Senate-passed level.

The Conference Agreement also provides transit budget authority of $5.841 billion in 2004 and $49.1 billion for 2004–09, which is also a compromise midway between the House- and Senate-passed.

The Conference Agreement establishes a contingency procedure to increase spending above the level in the budget resolution on highways, highway safety, and transit should new offsetting resources be made available to the Highway Trust Fund. The conferees intend that the increase provided for in this Conference Agreement above the baseline will be constrained by the resources available to the Highway Trust Fund.

COMMUNITY AND REGIONAL DEVELOPMENT: FUNCTION 450

*Function Summary*

Function 450 includes programs that provide Federal funding for economic and community development in both urban and rural areas, including: Community Development Block Grants [CDBGs]; the non-power activities of the Tennessee Valley Authority; the non-roads activities of the Appalachian Regional Commission; the Economic Development Administration [EDA]; and partial funding for the Bureau of Indian Affairs [BIA]. Funding for disaster relief and insurance—including the Federal Emergency Management Agency [FEMA], now part of the new Department of Homeland Security [DHS]—also appear here.

*House Resolution*

The House resolution calls for $14.1 billion in BA and $15.9 billion in outlays in fiscal year 2004, an increase of 15.4 percent in BA compared with fiscal year 2003. The function totals are $73.5 billion in BA and $76.5 billion in outlays over 5 years, and $155.8 billion in BA and $154.1 billion in outlays over 10 years.

Resources allow for significant expansions of the First Responder Grant Program, with $3.5 billion in funding for grants for ''first responders'' such as local firefighters, and search-and-rescue or police forces. This is a $1.7 billion increase over the 2003 enacted level.

*Senate Amendment*

The Senate amendment assumes funding for this function will total $14.3 billion in BA and $16.7 billion in outlays. This represents a decrease of 9 percent in BA, or $1.4 billion, from 2003. The Senate amendment assumes funding of $151.9 billion in BA and $153.5 billion in outlays over 2004–13.

For discretionary programs, the Senate amendment assumes $13.8 billion in BA and $16.8 billion in outlays for 2004. This represents a decrease of $1.4 billion in BA from the 2003 level. The Senate amendment includes the following specific assumptions.

As part of the newly formed Department of Homeland Security, all the activities of what was once known as the Federal Emergency Management Agency will be managed by the Emergency Preparedness and Response Directorate within DHS. For the Office of Domestic Preparedness, the Committee-reported resolution assumed the President's request for $3.5 billion in 2004 to ensure that first responders are properly trained and equipped. Then the Senate adopted an amendment to the resolution to add an additional $3.5 billion in 2003 for first responders. The Senate amendment also assumes $3.2 billion for Disaster Relief activities. This level is consistent with the average cost of (non-terrorist) disaster events over the past 5 years. This includes $2.0 billion in new money, as well as money left over from prior years. This $2.0 billion in new money represents an increase of $1.2 billion over the 2003 level.

The Senate amendment also incorporates the President's proposal for a new $300 million pre-disaster mitigation program. The Senate amendment also continues to support the protection of the public against flood damage by supporting the Flood Map Modernization Fund and including $200 million to update the inaccurate maps.

For Community Development Block Grants, the Senate amendment matches the President's request by assuming $4.7 billion in 2004. This is $200 million below the enacted 2003 level. The President proposes to review this program and develop proposals to better incorporate poorer communities with poverty rates above the national average.

For the Bureau of Indian Affairs, the Senate amendment assumes $1.1 billion which is an increase of $21 million from 2003. The resolution also supports Indian school construction and provides $346 million to improve academic performance at BIA schools and to eliminate the school maintenance and repair backlog.

Among mandatory activities in this function, the Senate amendment reflects an amendment adopted by the Senate adding $260 million in BA in 2004 (and in each year thereafter through 2013) for a new Homestead Venture Capital Fund.

*Conference Agreement*

The Conference Agreement calls for spending of $14.1 billion in BA and $15.8 billion in outlays in 2004, and $71.8 billion in BA and $75.4 billion in outlays over the period 2004–08. Over the period 2004–13, the agreement calls for spending of $149.3 billion in BA and $149.2 billion in outlays. The conference agreement accommodates the expansion of grants for first responders, and other activities in the new Department of Homeland Security.

The conferees strongly support the continued funding of the Round II Urban and Rural Empowerment Zone and Enterprise Community [EZ/EC] initiatives at least at the level pledged by the Round II designation of 1999. The conferees recognize that the current EZ/EC initiative is yielding measurable results; improving the economy and quality of life in distressed areas; enabling self-sufficiency of disadvantaged residents; and leveraging private and nonprofit resources. In competing for the designations, these communities were selected for their thoughtful use of Federal funds over a full 10 year cycle, not on how quickly they could withdraw funds from the Treasury. The Round II EZ/EC designees have received only a small portion of the Federal grant funds they were promised to implement their strategic plans for revitalization. This Conference Agreement assumes the program will receive sufficient resources to continue progress on this important work.

EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES: FUNCTION 500

*Function Summary*

Education spending consumes two-thirds of the Function 500 total, including elementary and secondary education services, higher education aid, and research and general education aids—the last category incorporating funding for arts, humanities, museums, libraries, and public broadcasting. Job training and other Labor Department activities are in this function, as are social services—including the Social Services Block Grant, vocational rehabilitation, and national service.

*House Resolution*

The House resolution calls for $84.7 billion in BA and $85.7 billion in outlays in fiscal year 2004. The function totals are $435.2 billion in BA and $428.7 billion in outlays over 5 years, and $914.5 billion in BA and 898.5 billion in outlays over 10 years.

The resolution levels support priority funding for a number of discretionary spending programs. It assumes an increase of $50 million, to $1.238 billion, for the Impact Aid program. It accommodates an increase of at least $666 million, to $12.35 billion, for Title I funding of low-income school districts. The resolution also provides for at least $12.7 billion toward the Pell Grant program for low-income undergraduate students, a $1.34–billion increase from 2003. In the area of special education, the resolution assumes an increase of at least $660 million for Individuals with Disabilities Education Act [IDEA] Part B Grants to States.

In mandatory spending, the resolution includes reconciliation instructions to the Committee on Education and the Workforce to create re-employment accounts as a temporary new benefit. As recommended in the President's economic growth proposal, $3.6 billion in mandatory BA is provided in 2003 for the establishment of these accounts.

*Senate Amendment*

For discretionary programs, the Senate amendment assumes $86.3 billion in BA and $75.8 billion in outlays for 2004. This represents an increase of $13.4 billion (18.5 percent) in BA over the 2003 level. The Senate amendment includes the following specific assumptions.

For Title I Grants to Local Education Agencies, the Committee-reported resolution assumed a $1 billion increase, bringing funding to $12.7 billion for academic year 2004–05. This represents an 8.6–percent increase over the previous academic year. An amendment adopted by the Senate added an additional $2 billion for No Child Left Behind programs. Another amendment adopted by the Senate added $2 billion for block grants to States for No Child Left Behind, special education, and vocational education programs.

For the Individuals with Disabilities Education Act [IDEA], the Committee- reported resolution assumed a $1–billion increase for Part B Grants to States, and a $205–million cap adjustment in 2004. In addition to maintaining the previous year's funding level, a $1–billion increase was assumed in each year thereafter through 2009, bringing IDEA funding to $6.2 billion above the baseline level in 2009. During its consideration of the resolution, the Senate adopted an amendment that increased IDEA levels by $970 million in 2004 and $2.3 billion in 2005.

The Committee-reported resolution assumed holding Impact Aid at the 2003 level. The Senate adopted an amendment to increase Impact Aid by $112 million, bringing its funding level to $1.3 billion in 2004.

For Pell Grants, the Committee-reported resolution assumed a $1.4 billion increase. The Senate adopted an amendment to increase Pell funding by an additional $1.8 billion, which would support a $4,500 maximum award. This brings total funding for Pell Grants to $14.5 billion in 2004.

The Senate amendment fully funds the President's request of $6.8 billion for Head Start, which would remain in HHS.

The Senate amendment reflects the President's proposals for reauthorization of the Workforce Investment Act [WIA] as well as an amendment adopted by the Senate to increase WIA funding by $678 million, bringing total funding to $5.6 billion.

The Senate amendment includes the administration's request for the Labor Department's Office of Labor-Management Standards, which reflects an additional $6 million to improve the transparency of union finances. The Senate amendment also reflects an additional $6–million increase to make whole the chronic under-funding of the Office in prior years.

The Senate amendment also assumes enactment of the CARE Act, as reported by the Senate Finance Committee, and therefore reflects an additional $275 million for the Social Services Block Grant for 2003 and an additional $1.1 billion for 2004.

The Senate amendment assumes adoption of the President's student loan forgiveness proposal at a cost of $45 million in 2004.

Among mandatory programs in this function, the Senate amendment reflects an amendment adopted by the Senate to create a New Homestead Venture Capital Fund, costing $1.2 billion over 10 years.

*Conference Agreement*

The resolution calls for $90.0 billion in BA and $84.2 billion in outlays in fiscal year 2004. The function totals are $468.4 billion in BA and $449.9 billion in outlays over 5 years, and $986.3 billion in BA and $955.6 billion in outlays over 10 years.

These levels accommodate a $3–billion increase from the previous year for the Department of Education, which would provide for a $1.3–billion increase for the Pell Grant program; a $50–million increase for the Impact Aid Program; and a $1–billion increase for Title I of the No Child Left Behind Act. Cumulatively, the Conference Agreement accommodates funding for No Child Left Behind programs of $1.5 billion above the President's proposed level. For the Part B Grants to States program of the Individuals with Disabilities Education Act, a $2.2–billion increase is provided for 2004, followed by an additional $2.5 billion increase in 2005. This increase of $4.7 billion over 2 years would raise the program's level of funding from $8.9 billion to $13.6 billion.

In mandatory spending, the resolution assumes the President's proposal to increase from $5,000 to $17,500 the maximum level of student loan forgiveness available to math, science, and special education teachers serving in low-income communities.

HEALTH: FUNCTION 550

*Function Summary*

Medicaid represents about 71 percent of the spending in this function. The function also includes the State Children's Health Insurance Program [SCHIP]; health research and training, including NIH and substance abuse prevention and treatment; and consumer and occupational health and safety, including the Occupational Safety and Health Administration.

The Department of Health and Human Services [HHS] plays a lead role in addressing bioterrorism. Four key HHS components participate in homeland bioterrorism security: the Centers for Disease Control and Prevention [CDC], the Food and Drug Administration [FDA], the Health Resources and Services Administration [HRSA], and the National Institutes of Health [NIH]. In fiscal year 2004, total spending for HHS's bioterrorism efforts would be $3.6 billion.

*House Resolution*

The House resolution calls for $235.1 billion in BA and $235.5 billion in outlays in fiscal year 2004, an increase of 5.9 percent in BA compared with fiscal year 2003. The function totals are $1,337.2 billion in BA and $1,334.8 billion in outlays over 5 years, and $3,196.9 billion in BA and $3,188.0 billion in outlays over 10 years.

For the Department of Homeland Security [DHS], the resolution reserves $5.6 billion over 10 years for BioShield, a program to accelerate research, development, and purchase of bioterrorism threat countermeasures. Also within Function 550, the resolution assumes $400 million to maintain and strengthen the Strategic National Stockpile.

The resolution provides for Medicaid reform to give States greater flexibility and to provide health insurance coverage for new populations. The budget establishes a reserve fund of $3.25 billion in fiscal year 2004 and $8.9 billion over 5 years for Medicaid reform. The proposal is budget-neutral over 10 years.

Other Medicaid policies include assumptions that expiring fiscal year 2000 State Children's Health Insurance Program funds will be extended for 1 year, that Transitional Medicaid Assistance and the QI–1 programs are extended for 5 years, and that the Vaccines for Children program will be modified to allow health departments to give vaccines.

The resolution also assumes enactment of abstinence education legislation and assumes States will have the option to expand Medicaid coverage for children with special needs, allowing families of disabled children the opportunity to purchase coverage under the Medicaid program for such children.

The budget assumes that by fiscal year 2004, NIH funding will have more than doubled over the 1998 level, to $27.9 billion.

*Senate Amendment*

For discretionary programs, the Senate amendment assumes $52.7 billion in BA and $50.8 billion in outlays for 2004. This represents an increase of $3.2 billion in BA over the 2003 level.

The omnibus appropriations bill of 2003 completed the planned 5–year doubling of the National Institutes of Health [NIH] budget from $13.7 billion in 1998 to $27.1 billion in 2003. Nonetheless, the Senate amendment includes an additional 10–percent increase for 2004, bringing total NIH funding to $29.7 billion in BA in 2004.

For mandatory programs, the Senate amendment includes several reserve funds. The Senate amendment assumes a reserve fund for the Finance Committee to reform Medicaid and the State Children's Health Insurance Program by providing flexibility to the States for innovation and expansion of coverage. The fund is based on the administration's proposal for a new Medicaid and SCHIP program option, under which States may take their Medicaid and SCHIP funding in a single Federal payment.

The Senate amendment includes another reserve fund for the Finance Committee to report legislation to extend the availability of SCHIP funds that will expire and restore availability of funds from 1998 and 1999 that have expired. According to CBO estimates, approximately $1.26 billion in SCHIP funds reverted to the Treasury on 1 October 2002, and $1.35 billion will return to the Treasury at the end of 2003. Beyond these amounts, the reserve fund would allow such legislation to provide an additional $1.825 billion in BA and $975 million in outlays over 10 years to the States to ease some of the financial strain they face as well as to cover more children under their SCHIP programs.

The Senate amendment includes an $88 billion reserve fund for the Finance Committee to report legislation that would assist the 41 million uninsured Americans in gaining access to quality, affordable health insurance.

The Senate amendment includes a reserve fund for the HELP Committee for the creation of Project Bioshield, a comprehensive effort to develop effective countermeasures against biological and other dangerous agents. Over the next 10 years, almost $6 billion will be available to purchase new countermeasures for smallpox, anthrax, and botulism toxin as well as to produce and purchase countermeasures for other dangerous agents, such as Ebola and plague, once safe and effective treatments are developed.

The Senate amendment includes savings of $3.346 billion over 10 years for medical liability reform.

*Conference Agreement*

The Conference Agreement calls for $240.6 billion in BA and $238.8 billion in outlays in fiscal year 2004. The function totals are $1,401.2 billion in BA and $1,396.6 billion in outlays over 5 years, and $3,375.4 billion in BA and $3,363.5 billion in outlays over 10 years.

The Agreement reserves $5.6 billion in funding over 10 years to allow the Department of Homeland Security to procure, for inclusion in the Strategic National Stockpile, countermeasures necessary to protect the public health from current and emerging threats of chemical, biological, radiological or nuclear agents. For Medicaid reform, the Agreement establishes a reserve fund of $3.3 billion in fiscal year 2004, and $8.9 billion over 5 years. The fund is budget neutral over 10 years. Other reserve funds in the Agreement include $161 million in new BA in 2004 and $50 billion over 10 years to increase access to health insurance for the uninsured; and $43 million in new BA in 2004 and $7.5 billion over 10 years for the Family Opportunity Act. Other assumptions include a 1–year extension of certain State Children's Health Insurance Program funds—specifically fiscal year 1998 and 1999 funds that have expired, and fiscal year 2000 funds that are expiring. In addition, the Conference Agreement assumes that Transitional Medicaid Assistance and the QI–1 programs are extended for 5 years. It also assumes funding for abstinence education.

The Agreement assumes savings of $3.7 billion over 10 years resulting from the impact of medical liability reform on Medicaid, FEHBP, and DOD. The figure reflects an updated cost estimate from the Congressional Budget Office for the 108th Congress.

MEDICARE: FUNCTION 570

*Function Summary*

This budget function reflects the Medicare Part A Hospital Insurance [HI] Program, Part B Supplementary Medical Insurance [SMI] Program, and premiums paid by qualified aged and disabled beneficiaries. It also includes the ''Medicare+Choice'' Program, which covers Part A and Part B benefits and allows beneficiaries to choose certain private health insurance plans. Medicare+Choice plans may include health maintenance organizations, preferred provider organizations, provider-sponsored organizations, and private fee-for-service plans. In addition to covering all Medicare-covered services, such plans may add benefits or reduce cost-sharing required by the traditional Medicare program.

*House Resolution*

The House resolution calls for $266.5 billion in BA and $266.9 billion in outlays in fiscal year 2004, an increase of 7.2 percent in BA compared with fiscal year 2003. The function totals are $1.6 trillion in BA and $1.6 trillion in outlays over 5 years and $3.9 trillion in BA and $3.9 trillion in outlays over 10 years. Over the 2004–13 period, Medicare spending grows by 7.8 percent.

The House budget resolution includes a reserve fund of $400 billion over 10 years for Medicare modernization and a prescription drug benefit. The $400 billion amount is equal to the amount the President proposed in his fiscal year 2004 budget. This amount is in addition to the $54 billion increase in Medicare spending in the Fiscal Year 2003 Omnibus Appropriations Bill.

*Senate Amendment*

The Senate amendment assumes the President's proposal to provide additional Medicare funds to improve access to prescription drugs for all beneficiaries and to strengthen and modernize the program. This funding is included in a reserve fund, which contains up to $400 billion for the 2004–13 period.

The Senate amendment also assumes savings of $7.9 billion dollars over 10 years in Medicare from the passage of medical liability reform. The Congressional Budget Office has determined that limits on medical malpractice litigation would lower the cost of malpractice insurance for physicians, hospitals, and other health care providers and organizations. That reduction in insurance costs would, in turn, lead to lower charges for health care services and procedures, and ultimately, to a decrease in rates for health insurance premiums.

*Conference Agreement*

The Conference Agreement calls for $266.0 billion in BA and $266.3 billion in outlays in fiscal year 2004, $1,583.3 billion in BA and $1,583.4 billion in outlays over 5 years, and $3,867.7 billion in BA and $3,867.6 billion in outlays over 10 years.

The Conference Agreement includes separate Medicare reserve funds for the House and Senate, each of which provides $7 billion in fiscal year 2004 and $400 billion over 10 years. The $400-billion level is equal to the amount the President proposed in his fiscal year 2004 budget.

The Conference Agreement also assumes savings of $11.2 billion over 10 years in Medicare from the passage of medical liability reform legislation. This amount reflects the updated cost estimate from the Congressional Budget Office for the 108th Congress.

INCOME SECURITY: FUNCTION 600

*Function Summary*

The Income Security function includes most of the Federal Government's income support programs. These include: general retirement and disability insurance (excluding Social Security)—mainly through the Pension Benefit Guaranty Corporation [PBGC]—and benefits to railroad retirees. Other components are Federal employee retirement and disability benefits (including military retirees); unemployment compensation; low-income housing assistance, including section 8 housing; food and nutrition assistance, including food stamps and school lunch subsidies; and other income security programs.

This last category includes: Temporary Assistance to Needy Families [TANF], the Government's principal welfare program; Supplemental Security Income [SSI]; spending for the refundable portion of the Earned Income Credit [EIC]; and the Low Income Home Energy Assistance Program [LIHEAP]. Agencies involved in these programs include the Departments of Agriculture, Health and Human Services, Housing and Urban Development, the Social Security Administration (for SSI), and the Office of Personnel Management (for Federal retirement benefits).

Over the period 1998–03, BA in the function has had an average annual increase of 6.4 percent.

*House Resolution*

The House resolution calls for $315.9 billion in BA and $321.6 billion in outlays in fiscal year 2004. The function totals are $1,658.0 billion in BA and $1,672.7 billion in outlays over 5 years, and $3,524.3 in BA and $3,543.0 in outlays over 10 years. The reauthorization of the contingency fund in the TANF program causes a one-time spike in BA and outlays during fiscal year 2003 relative to the remaining period of the reauthorization.

The resolution assumes that the TANF block grant, as well as the related child care entitlement to States and other elements of the 1996 welfare reform law will be reauthorized during fiscal year 2003 as passed by the House on 13 February 2003 in the Personal Responsibility, Work, and Family Promotion Act of 2003, which accommodates an additional $2.4 billion in mandatory spending above the baseline for these programs over 5 years (2003–08). The resolution allows for an additional $1 billion over 5 years above current law for the mandatory child care entitlement to States.

The resolution also accommodates the President's proposal to offer States an optional block grant for foster care payments. The resolution assumes $6.9 billion in 2004 for Foster Care and Adoption Assistance, including the Independent Living program, which provides assistance to youths who are aging out of foster care.

The resolution assumes a decline in Unemployment Insurance benefit payments in fiscal year 2004, relative to 2003, because extended Federal Unemployment Insurance benefits enacted on 8 January 2003 will terminate on 31 May 2003, and because economic assumptions assume a drop in the unemployment rate in 2004.

The resolution seeks to reduce erroneous overpayments in SSI by accommodating $1.4 billion to conduct Continuing Disability Reviews [CDRs] of SSI Disability recipients to ensure that they are sufficiently disabled to remain eligible for benefits.

The resolution assumes the outlay portions of refundable tax credits contained in the President's economic growth package of tax incentives, together with the outlay effects of making refundable tax credit policies of the 2001 tax cuts permanent. Outlays are assumed for the Earned Income Tax Credit and the Child Tax Credit under these provisions.

The resolution also assumes enactment of legislation such as H.R. 4069 (from the 107th Congress), providing for enhancement of Social Security benefits for women.

*Senate Amendment*

For discretionary programs, the Senate amendment assumes $45.7 billion in BA and $51.5 billion in outlays for 2004. This represents an increase of $1.7 billion in BA and $763 million in outlays from the 2003 level. The Senate amendment includes the following specific assumptions.

The Senate amendment includes an additional $9 million for the Employee Benefit Security Administration for pension protection and employer education.

The Senate amendment incorporates the administration's plan to reform the Federal Employee Compensation Act. These changes will save taxpayers approximately $80 million over 10 years.

The Senate amendment incorporates a debt restructuring and interest refinancing plan for the Black Lung Trust Fund.

The Senate amendment includes the President's proposal for food and nutrition funding totaling $41.7 billion for 2004. The Senate amendment increases funding for the Women's Infant and Children program by $73 million, or 1.6 percent more than 2003.

The Senate amendment assumes reauthorization the Personal Responsibility and Work Act and therefore assumes an increase above the President's request for the Child Care Development Block Grant. The Senate amendment assumes an increase for 2004 of $214 million over the 2003 level, a 10.2-percent increase.

The Senate amendment includes the President's proposal to eliminate a discretionary limit on administrative expenditures for the Pension Benefit Guarantee Corporation.

Under the Senate amendment, sufficient budget authority is provided to renew all utilized section 8 housing contracts as contemplated in the 2003 Omnibus Appropriations Bill.

Among mandatory programs in this function, the Senate amendment assumes the President's request to reauthorize the landmark 1996 welfare reform legislation, which replaced the 60 year-old Aid to Families with Dependent Children program with the Temporary Assistance to Needy Families block grant. The Senate amendment also assumes the President's priority to promote healthy marriages, fatherhood and family formation. The Senate amendment is supportive of efforts to capitalize and develop the role of sustainable social services, such as Goodwill, which are critical to the success of moving welfare recipients to work.

The Senate amendment assumes an increase of $200 million annually above the baseline in the Child Care Entitlement to States.

The Senate amendment also assumes aspects of the President's proposal to enhance Child Support Enforcement collections. Child Support Enforcement efforts will increase collections and direct more of the support collected to children and families.

The Senate amendment assumes the President's Foster Care and Adoption Assistance proposal, providing States with increased flexibility to better design their child welfare system that supports services to families in crisis and children at risk.

*Conference Agreement*

The conference agreement calls for spending of $319.5 billion in BA and $324.8 billion in outlays in 2004, and $1,706.1 billion in BA and $1,720.0 billion in outlays over the period 2004–08. Over the period 2004–13, the agreement calls for spending of $3,686.9 billion in BA and $3,703.5 billion in outlays.

The conference agreement assumes reauthorization of TANF at the level requested by the President, which is largely consistent with H.R. 4 as passed by the House on 13 February, 2003. It also provides $2.0 billion above the baseline level for the mandatory Child Care Entitlement to States, as assumed in the Senate budget resolution. The Agreement assumes funding for the incentive to States to reform child welfare programs as proposed by the President. It also assumes savings from pre-effectuation reviews of applications for Supplemental Security Income benefits.

SOCIAL SECURITY: FUNCTION 650

*Function Summary*

Function 650 consists of the Social Security Program, or Old Age, Survivors, and Disability Insurance [OASDI]. Under provisions of the Congressional Budget Act and the Budget Enforcement Act, Social Security trust funds are ''off budget.'' Nevertheless, a small portion of spending in Function 650—specifically a portion of the budget for the Office of the Inspector General of the Social Security Administration [SSA], the quinquennial adjustment for World War II veterans, and general fund transfers of taxes paid on Social Security benefits—are on budget.

*House Resolution*

Total on-budget spending in the House resolution is $14.2 billion in BA and outlays.

*Senate Amendment*

The Senate amendment assumes the on-budget totals for Social Security will be $14.3 billion in BA and outlays for 2004 and $223.8 billion in BA and outlays over 2004–13. The Senate amendment assumes discretionary spending in this function, for the administrative expenses of the Social Security Administration, would total $4.3 billion in BA and $4.2 billion in outlays for 2004. This represents an increase of $0.4 billion, or 11.7 percent, in BA above the 2003 level. The Senate amendment assumes no mandatory increases or decreases in this function.

*Conference Agreement*

The Conference Agreement calls for on-budget amounts as follows: $14.3 billion in BA and outlays in 2004; $83.8 billion in BA and outlays for 2004–08; and $223.8 billion in BA and outlays over the 2004–13 period. The House accepts the Senate's method of recording certain pension offsets.

VETERANS BENEFITS AND SERVICES: FUNCTION 700

*Function Summary*

The Veterans Benefits and Services function includes funding for the Department of Veterans Affairs [VA], which provides benefits to veterans who meet various eligibility rules. Benefits range from income security for veterans, principally disability compensation and pensions; veterans education, training, and rehabilitation services; hospital and medical care for veterans; and other veterans' benefits and services, such as home loan guarantees. There are about 25 million veterans, but over the next 20 years this number will decline by one-third, to about 17 million.

*House Resolution*

The House resolution calls for $61.6 billion in BA and $61.1 billion in outlays in fiscal year 2004, an increase of 5.4 percent in BA compared with fiscal year 2003. The function totals are $319.5 billion in BA and $318.2 billion in outlays over 5 years; and $671.7 billion in BA and $668.9 billion in outlays over 10 years.

The resolution supports a $1.3-billion increase in veterans medical care. It assumes the expansions and revisions of mandatory benefits proposed by the administration's fiscal year 2004 budget, as well as: continuation of Dependency and Indemnity Compensation for surviving spouses who remarry after age 55; an increase in auto allowance from $9,000 to $11,000 for severely disabled veterans; and accrued benefits for veterans survivors.

*Senate Amendment*

The Senate amendment assumes levels for this function of $63.8 billion in BA and $63.2 billion in outlays. This represents an increase of 10.7 percent, or $6.2 billion, in BA. The Senate amendment assumes funding of $693.7 billion in BA and $689.2 billion in outlays over 2004–13.

For discretionary spending, the Senate amendment assumes $30.0 billion in BA and $29.6 billion in outlays for 2004. This represents an increase of 12.9 percent, or $3.4 billion, in BA over the 2003 level. The Senate amendment proposes to refocus resources to benefit higher priority veterans.

The Senate amendment proposes total net funding of $29.0 billion for the Department of Veterans Affairs [VA] medical programs. This is an increase of 14.6 percent, or $3.7 billion, above the 2003 enacted level, and the largest increase for medical care in the past 5 years. This increase will help the VA in its mission to provide medical care to its core constituency low-income and service-connected disabled veterans.

The Senate amendment assumes the enactment of legislation to establish the President's proposed $250 enrollment fee for priority level 7 and 8 veterans. Priority 7 and 8 veterans have ailments that are not service connected and have a higher income than other veterans using the VA hospitals. The enrollment fee would generate offsetting receipts of $102 million in 2004 for the Medical Care Collections Fund [MCCF].

The Senate amendment also assumes legislation will be enacted to increase the insurance and prescription drug co-payments for Priority 7 and 8 veterans to $20 and $15, respectively, as proposed by the President. In addition, the Senate amendment reflects the President's proposal to eliminate both the insurance and prescription drug co-payment for priority level 2 through 5 veterans. These changes in the prescription drug and insurance co-payments would yield offsetting receipts of $224 million in 2004 into MCCF.

For mandatory veterans programs, the Senate amendment assumes the President's proposal to enact legislation to restore the original interpretation of section 1110 of title 38 U.S. Code will be enacted. Section 1110 prohibits compensation for alcohol or drug abuse that arises secondarily from a service connected disability. In February 2001, the U.S. Court of Appeals decided that section 1110 did not preclude compensation for alcohol or drug abuse arising secondarily from a service connected disability. This proposal would save $71 million over 10 years.

*Conference Agreement*

The Conference Agreement calls for $63.8 billion in BA and $63.2 billion in outlays in fiscal year 2004. The function totals are $327.9 billion in BA and $325.6 billion in outlays over 5 years; and $693.9 billion in BA and $689.4 billion in outlays over 10 years. The Agreement assumes no revisions in mandatory programs.

The Conference Agreement provides for discretionary BA of $29.96 billion for fiscal year 2004, an increase of $3.4 billion, or 12.9 percent—nearly all of which is expected to be for Department of Veterans Affairs [VA] medical programs. An increase of this magnitude will help the VA in its mission to provide medical care to its core constituency—low-income and service-connected disabled veterans, as well as the cost of medical care for combat veterans returning from Iraq in accordance with Public Law 105–368.

ADMINISTRATION OF JUSTICE: FUNCTION 750

*Function Summary*

Function 750 supports the majority of Federal justice and law enforcement programs and activities. This includes funding for the Department of Justice, much of the newly formed Department of Homeland Security [DHS], as well as the financial law enforcement activities of the Department of the Treasury, Federal courts and prisons, and criminal justice assistance to State and local governments.

*House Resolution*

The House resolution calls for $37.3 billion in BA and $40.9 billion in outlays for this function for fiscal year 2004. The function totals over 10 years are $404.2 billion in BA and outlays.

The House resolution fully funds the Department of Homeland Security [DHS] components reflected in this function, including: securing the Nation's borders; enhancing Federal, State, and local law enforcement efforts; stopping terrorist financing; and bringing terrorist conspirators to justice.

The resolution also provides for $18.7 billion in discretionary funding for the Department of Justice, and thus allows for the hiring of 2,170 new employees, including 1,911 new FBI personnel.

Also in this function, the resolution assumes $9 million for the mandatory costs associated with creating 62 new Federal judgeships and extending five existing bankruptcy judgeships.

*Senate Amendment*

The Senate amendment assumes funding for this function will total $37.8 billion in BA and $40.9 billion in outlays. This represents a decrease of 2.0 percent, or $0.8 billion, in BA from 2003. The Senate amendment assumes funding of $406.4 billion in BA and $408.7 billion in outlays over 2004–13.

For discretionary programs, the Senate amendment assumes $33.7 billion in BA and $37.6 billion in outlays for 2004. This represents a decrease of $2.6 billion in BA from the 2003 level. The Senate amendment includes the following specific assumptions.

For the Department of Homeland Security, the Senate amendment assumes $5.6 billion in discretionary funds in 2004 for the Bureau of Customs and Border Protection, an increase of $800 million (16.7 percent) more than in 2003. For the DHS Bureau of Immigration and Customs Enforcement, the Senate amendment assumes $1.4 billion for 2004, an increase of $0.3 billion or 26 percent more than in 2003. The Senate also adopted an amendment to add $150 million in BA in 2004 and 2005 for additional port security needs.

For the Federal Bureau of Investigation [FBI], the Senate amendment assumes a total of $4.1 billion, an increase of $397 million (10.6 percent) from 2003. This increase would be primarily used for intelligence analysts, surveillance personnel, and field investigators, including cybercrime investigators, as well as to support FBI-led interagency task forces.

The Senate amendment also assumes $500 million for the Office of Domestic Preparedness to be used exclusively for grants to local law enforcement agencies to combat terrorism.

The Senate amendment assumes two mandatory proposals in the President's budget concerning the extension of expiring Customs user fees. If extended, the combined resulting collections would be $1.3 billion in 2004 and $17.8 billion through 2013.

*Conference Agreement*

The function totals for the Conference Agreement are $37.6 billion in BA and $40.8 billion in outlays for fiscal year 2004; $191.5 billion in BA and $195.7 billion in outlays over 5 years; and $406.3 billion in BA and $408.6 billion in outlays over 10 years.

The Agreement fully funds the President's request for the Department of Justice and the programs and activities of the Department of Homeland Security in Function 750. The Agreement also assumes additional funding for Bankruptcy and other Federal judges.

GENERAL GOVERNMENT: FUNCTION 800

*Function Summary*

The General Government function consists of the activities of the Legislative Branch; the Executive Office of the President; general tax collection and fiscal operations of the Department of Treasury (including the Internal Revenue Service [IRS]); the property and personnel costs of the General Services Administration and the Office of Personnel Management; general purpose fiscal assistance to States, localities, the District of Columbia, and U.S. territories; and other general government activities. The IRS accounts for about half of the spending in this function.

*House Resolution*

The House resolution calls for $19.8 billion in BA and $19.6 billion in outlays in fiscal year 2004, an increase of 8.8 percent in BA compared with fiscal year 2003. The function totals are $99.3 billion in BA and $98.9 billion in outlays over 5 years, and $206.4 billion in BA and $203.9 billion in outlays over 10 years.

The House Passed resolution accommodates $500 million for the newly created Election Assistance Commission. It also assumes the President's mandatory spending proposal to pay financial institutions for their services in lieu of providing compensating balances; and continuation of fiscal assistance provided to the Compact of Free Association between the United States Government and the government of the Federated States of Micronesia.

*Senate Amendment*

For discretionary programs, the Senate amendment assumes $17.1 billion in BA and $16.8 billion in outlays for 2004. This represents an increase of $1.4 billion in BA from the 2003 level. The Senate amendment includes the following specific assumptions.

The Senate amendment allocates $10.4 billion for the Internal Revenue Service [IRS], an increase of $550 million or almost 6 percent over 2003. Of that increase, 50 percent is directed into Tax Law Enforcement [TLE], 23 percent toward Processing Assistance and Management [PAM], and 19 percent for reducing fraud in the Earned Income Tax Credit [EITC] program.

The Senate amendment allocates $223 million for Payments in Lieu of Taxes [PILT] for 2004, $23 million more than the President's request. Over the next decade, this translates into an additional $300 million above the President's request. These payments compensate municipal governments for forgone revenues stemming from the presence of the Federal Government.

The Senate amendment increases Homeland Security funding within Function 800 by $214 million in 2004. The additional funds are dedicated to developing the site plan for the new headquarters, converting wireless radio communication to narrowband operations and bolstering security at Federal buildings.

For mandatory programs, the Senate amendment reflects the President's proposal to open ANWR for oil and gas leasing (the total Federal receipts portion appears in Function 950, Offsetting Receipts). The State of Alaska would receive a payment of one-half of the proceeds, or $1.7 billion in 2006, which is reflected in Function 800.

The Senate amendment assumes that President's $386 million Financial Agent Services proposal is enacted. Currently, financial institutions that operate major collection and payment programs on behalf of the Federal Government are reimbursed via compensating balances. The President's proposal would instead replace the existing barter arrangement with a more transparent fee-for-service agreement.

In its examination of selected Government programs, OMB determined through the Performance Assessment Rating Tool [PART] that IRS collection efforts do not efficiently utilize its available resources. In response, the President proposes legislation that would permit the IRS to enlist the help of private collection agencies to obtain payment from delinquent taxpayers. The Senate amendment includes $226 million in mandatory funding in 2004 for this proposal.

*Conference Agreement*

The Conference Agreement for Function 800 calls for $20.2 billion in BA and $20.1 billion in outlays in fiscal year 2004. The functional totals are $103.9 billion in BA and $103.2 billion in outlays over 5 years, and $221.3 billion in BA and $218.2 billion in outlays over 10 years.

The Conference Agreement reflects the Senate amendment on funding for PILT.

In fiscal year 2004, the Conference Agreement assumes the President's $386 million Financial Agent Services proposal is enacted. It also assumes that Compacts of Free Association are ratified and therefore accommodates $19 million for this purpose in 2004.

NET INTEREST: FUNCTION 900

*Function Summary*

Net interest is the interest paid for the Federal Government's borrowing less the interest received by the Federal Government from trust fund investments and loans to the public. Function 900 is a mandatory payment, with no discretionary components.

On-budget BA and outlays for net interest has gone from $287.8 billion in fiscal year 1998 to $239.7 billion in fiscal year 2003, an overall decrease of 3.6 percent per year.

*House Resolution*

For on-budget interest, the resolution calls for $256.7 billion in BA and outlays in fiscal year 2004, an increase of 7.2 percent compared with fiscal year 2003. The function totals are $1,659.4 billion in BA and outlays over 5 years, and $3,910.9 billion in BA and outlays over 10 years. For off-budget interest, it calls for −$89.8 billion in BA and outlays in fiscal year 2004, a decrease of 6.7 percent compared with fiscal year 2003. The function totals are −$554.2 billion in BA and outlays over 5 years, and −$1,481.3 billion in BA and outlays over 10 years.

The resolution assumes a reduction in interest payments of $0.3 billion in BA and outlays in fiscal year 2004 and $5.3 billion in BA and outlays over 10 years. This saving arises from replacing Treasury's compensating balances by a permanent indefinite appropriation (see Function 800) that would result in lower borrowing by the Federal Government.

*Senate Amendment*

For 2004, the Senate amendment sets forth on-budget levels of $255.8 billion in BA and outlays. Over the 2004–2013 period, it provides on-budget amounts of $3,889.2 billion in BA and outlays.

The Senate amendment assumes two additional policies that affect net interest. The first is the President's proposal to pay financial institutions for their services in lieu of providing compensating balances (discussed in Function 800), which results in lower borrowing by the Federal Government and saves $5.3 billion in interest over 10 years. The second is the Postal Service pension proposal (discussed in Functions 370 and 950), which results in a reduction in interest received by the Federal Government.

*Conference Agreement*

The Conference Agreement calls for on-budget amounts of 259.4 billion in BA and outlays in fiscal year 2004, and $4,072.6 billion over the 2004–13 period.

ALLOWANCES: FUNCTION 920

*Function Summary*

The Allowances function is used for planning purposes to reflect the aggregate budgetary effects of proposals or assumptions that relate to programs in other budget functions. Once such changes are enacted, the budgetary effects are distributed to the appropriate budget functions.

There is no spending history in Function 920 for the reason mentioned above.

*House Resolution*

The House resolution calls for −$1.1 billion in BA and −$0.6 billion in outlays in fiscal year 2004, all of it in discretionary spending. The function totals are −$1.1 billion in BA and outlays for both the 5-year and the 10-year periods. There are offsets in Functions 500 and 700: $0.2 billion in BA and outlays in Function 500, for Impact Aid; and −$1.1 billion in BA and outlays in Function 700 to match the function total with the President's.

*Senate Amendment*

The Senate Amendment assumes levels for this function would total −$16.1 billion in BA and −$8.3 billion in outlays for 2004. Initially, the Committee-reported resolution only assumed discretionary effects in this function (totaling −$3.9 billion in BA and −$3.6 billion in outlays for 2004). These assumptions reflected removal of the effects of pay annualization in the baseline (which would reduce discretionary BA by about $2 billion annually); an alternate growth scenario for the path of nondefense discretionary spending after 2008 (the last year of the President's 2004 budget); and an unspecified offset for an increase in veterans medical care.

During consideration of the Committee-reported resolution, the Senate adopted 10 amendments that provided unspecified discretionary offsets in Function 920 for specific assumptions affecting other portions of the budget, and one amendment for an unspecified mandatory offset in Function 920 for spending increases in Functions 450 and 500.

*Conference Agreement*

The Agreement calls for −$7.6 billion in BA and $22.3 billion in outlays in fiscal year 2004.

UNDISTRIBUTED OFFSETTING RECEIPTS: FUNCTION 950

*Function Summary*

Offsetting Receipts recorded in this function are either intragovernmental (a payment from one Federal agency to another, such as agency payments to the retirement trust funds) or proprietary (a payment from the public for some kind of business transaction with the Government). The main types of receipts recorded in this function are: the payments Federal employers make to employee retirement trust funds; payments made by companies for the right to explore and produce oil and gas on the Outer Continental Shelf; and payments by those who bid for the right to buy or use public property or resources, such as the electromagnetic spectrum. These receipts are treated as mandatory negative spending.

*House Resolution*

The House resolution calls for −$52.9 billion in BA and outlays for this function in fiscal year 2004, reflecting a −$2.4 billion, or −4.8 percent, increase in receipts (or decrease in spending) compared to the fiscal year 2003 budget. This amount is the baseline for offsetting receipts increased by the reduction ($2.7 billion) in the Postal Service's contribution to the Civil Service Retirement System. Over the 2004–08 period, BA and outlays are to further decrease by $16.1 billion due to an average increase for receipts of 5.7 percent per year. Over 10 years, receipts are to total −$676.0 billion in BA and outlays.

*On-Budget Receipts.* The resolution calls for −$42.9 billion in BA and outlays in fiscal year 2004, a decrease of 4.4 percent in BA compared with fiscal year 2003. The function totals are −$255.0 billion in BA and outlays over 5 years, and −$539.4 billion in BA and outlays over 10 years. Over the 2004–08 period, on-budget BA and outlays further decrease an average of 5.4 percent per year.

*Off-Budget Receipts.* The resolution assumes −$10.0 billion in BA and outlays in fiscal year 2004, a decrease of 6.6 percent in BA compared with fiscal year 2003. The off-budget function totals −$57.6 billion in BA and outlays over 5 years, and −$136.5 billion in BA and outlays over 10 years. Over the 2004–08 period, BA and outlays further decrease an average of 6.8 percent per year. The off-budget receipts in this function are agencies' payments to the Social Security trust funds at baseline.

*Senate Amendment*

The Senate amendment assumes additional offsetting receipts of $2.15 billion over the 2004–13 period, consistent with opening up the 1002 area of the Arctic National Wildlife Refuge for oil exploration and production in order to decrease our dependence on foreign oil (the payment of a share of these receipts to the State of Alaska is reflected in Function 800). An amendment to the Committee-reported resolution adopted by the Senate struck the reconciliation instruction to the Senate Energy Committee to report legislation producing that level of savings.

The Senate amendment also assumes legislation (S. 380, as cleared for the President on 8 April 2003) that would reduce the Postal Service payment to the Civil Service Retirement [CSRS] trust fund for 2003–05, but then would reinstate and redirect the payment to an escrow fund until Congress can enact subsequent law regarding how the Postal Service should address its retiree health liabilities and other concerns. This proposal would increase the unified deficit by $7.3 billion over the 2003–13 period. The budgetary effect on the Postal Service is reflected in Function 370, and the effect on the receipts of the CSRS fund are shown in this function (a small interest effect appears in Function 900).

The Senate amendment assumes the President's proposals to extend the authority of the Federal Communications Commission to auction spectrum (which would otherwise expire at the end of 2007) and to impose an efficiency fee on users of spectrum not acquired through Federal auction.

*Conference Agreement*

*On-Budget Receipts.* For these receipts, the Agreement assumes −$42.9 billion in BA and outlays in fiscal year 2004; −$250.2 billion over 5 years; and −$540.2 billion over 10 years.

*Off-Budget Receipts.* The Agreement assumes −$10.0 billion in BA and outlays in fiscal year 2004; −$57.6 billion over 5 years; and −$136.5 billion over 10 years.

The Agreement assumes extended authority to auction the electromagnetic spectrum. It makes no assumption concerning the Arctic National Wildlife Refuge.

RECONCILIATION INSTRUCTIONS

Under section 310(a) of the Congressional Budget Act, the budget resolution may include directives to the committees of jurisdiction to make revisions in law necessary to accomplish a specified change in spending or revenues. If the resolution includes directives to only one committee of the House or Senate, then that committee is required to directly report to its House legislative language of its design that would implement the level of spending or revenue changes provided for in the resolution. Any bill considered pursuant to a reconciliation instruction is subject to special procedures set forth in sections 310 and 313 of the Budget Act.

*House Resolution*

*Section 201. Reconciliation*

Section 201 provides for two different reconciliation bills. The first reconciliation bill is designed to stimulate economic growth and to simplify and reform the tax system. It has two separate directives: The Committee on Ways and Means must reduce the total level of revenues by not more than $35.4 billion for fiscal year 2003, $112.8 billion for fiscal year 2004, $387.7 billion for the period of fiscal years 2004 through 2008, and $662.8 billion for the period of fiscal years 2004 through 2013. It must also increase the level of direct spending by $4.4 billion in outlays for fiscal year 2003, $1.1 billion in outlays for fiscal year 2004, $17.4 billion in outlays for the period of fiscal years 2004 through 2008, and $23.1 billion in outlays for the period of fiscal years 2004 through 2013. It also requires the Education and the Workforce to increase direct spending by $3.6 billion for FY2003. These changes must be transmitted to the Budget Committee by 11 April 2003.

The House resolution also instructs 13 committees to reduce spending on programs within their jurisdiction to the Budget Committee by 18 July 2003. The intent of the instruction is to reduce instances of waste fraud and abuse in these program areas. The committees may choose their own methods of complying with the directives. The committees are as follows: Agriculture, Education and the Workforce, Energy and Commerce, Financial Services, Government Reform, House Administration, International Relations, the Judiciary, Resources, Science, Transportation and Infrastructure, Veterans Affairs, and the Ways and Means. Each committee is required to reduce its spending by one percent.

*Senate Amendment*

*Section 104. Reconciliation in the Senate*

The Senate amendment instructs the Finance Committee to report legislation by 8 April 2003 to reduce revenues by $322.5 billion over 2003–2013 and to increase direct spending related to tax policy changes by $27.5 billion over 2003–2013 (reflected in function 600). The Committee-reported resolution had reconciled the Finance Committee for a reduction in revenues and an increase in outlays consistent with President Bush's jobs and growth tax relief plan—$725.8 billion over the 2003–2013 period. During consideration of the Committee-reported resolution, the Senate adopted several amendments that reduced the revenue reconciliation instruction to the Finance Committee.

*Conference Agreement*

*Section 201. Reconciliation for Economic Growth and Tax Simplification and Fairness*

Section 201(a) of the Conference Agreement includes a reconciliation directive to the House Ways and Means Committee to report legislation by 8 May 2003 to stimulate economic growth and to simplify and reform the tax system. The committee must reduce the total level of revenues by not more than $535.0 billion for the period of fiscal years 2003 through 2013, and to increase direct spending related to tax policy changes by $15.0 billion over 2003–2013.

Section 201(b) of the Conference Agreement instructs the Senate Finance Committee to report legislation by 8 May 2003 to reduce revenues by $522.524 billion over 2003–2013 and to increase direct spending related to tax policy changes by $27.476 billion over 2003–2013 (reflected in function 600).

*Section 202. Limit on Senate Consideration of Reconciliation*

Section 202 of the Conference Agreement limits initial Senate consideration of a reconciliation bill reported pursuant to Section 201, or any amendment thereto, to no more than $322.524 billion in revenue reductions and $27.476 billion in outlay increases for the period of fiscal years 2003 through 2013, enforced by a 60–vote point of order. The limitation would not apply to a conference report on legislation considered pursuant to this Title.

SUBMISSIONS TO ELIMINATE WASTE, FRAUD, AND ABUSE

*Section 301. Submissions to eliminate waste, fraud, and abuse*

Section 301 of the Conference Agreement requires authorizing committees in the House and the Senate to submit findings to the appropriate Budget Committee identifying instances of waste fraud and abuse in programs within their jurisdiction sufficient to reduce outlays by an amount to be specified by the chairmen of the Budget Committees. Such a specified amount must be inserted in the Congressional Record by 19 May 2003. The findings of the authorizing committees must be submitted to the Budget Committees by 2 September 2003. These findings will be used by the Budget Committees in the development of future budget resolutions.

In the House, the authorizing committees directed to report these findings are: Agriculture, Armed Services, Education and the Workforce, Energy and Commerce, Financial Services, Government Reform, House Administration, International Relations, Judiciary, Resources, Science, Small Business, Transportation and Infrastructure, Veterans' Affairs, and Ways and Means.

In the Senate, the authorizing committees directed to report these findings are: Agriculture, Nutrition and Forestry; Armed

Services; Banking, Housing, and Urban Affairs; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Foreign Relations; Governmental Affairs; Health, Education, Labor, and Pensions; Judiciary; Small Business; Veterans' Affairs; and Indian Affairs.

Finally, the Comptroller-General of the General Accounting Office is directed to submit to the Budget Committees a report identifying instances in which the committees of jurisdiction can make legislative changes to improve the economy, efficiency, and effectiveness of Federal programs. The report must be submitted by 2 September 2003.

RESERVE FUNDS, CONTINGENCY PROCEDURES, AND ADJUSTMENTS

*House Resolution*

*Section 301. Medicare modernization and prescription drugs*

Section 301 creates a reserve fund for legislation that provides a prescription drug benefit and modernizes Medicare, and provides adjustments to the Medicare program on a fee-for-service, capitated, or other basis. It creates a separate allocation for Medicare and then permits the Chairman of the House Budget Committee to make adjustments to that allocation for such legislation. The committees with jurisdiction over Medicare may report legislation for these purposes, though the adjustment made must be no more than $7.5 billion in fiscal year 2004 and $400 billion for fiscal years 2004 through 2013. Pursuant to section 321(d), legislation must be within the allocations provided by the budget resolution in the first year and five-year period. Because of the separate Medicare allocation established in section 301(c), Medicare legislation must be within its allocation in the first year and the ten-year period. For legislation other than Medicare, the applicable allocation is for the first and five-year period.

*Section 302. Reserve fund for medicaid*

Section 302 creates a reserve fund that allows the Chairman of the House Budget Committee to adjust the allocation of BA and outlays to the Committee on Energy and Commerce for any measure that combines funding for Medicaid and the State Children's Health Insurance Program [SCHIP]. The purpose of this reserve fund is to ensure, as a condition for setting any increase in the allocation, the bill is deficit neutral over ten years. The adjustments in the allocations may not exceed $3.3 billion in new BA and outlays for fiscal year 2004; and $8.9 billion in new BA and outlays for the period of fiscal years 2004 through 2008.

*Section 303. Reserve fund for Bioshield*

In section 303, the Chairman of the House Budget Committee is permitted to adjust the allocation of BA and outlays to the appropriate committees for a bill that establishes a program to accelerate the research, development, and purchase of biomedical threat countermeasures.

The adjustment can accommodate either a discretionary or mandatory program, depending on the structure of the program in the authorizing legislation. If it is mandatory, the adjustment may not exceed $890 million in new mandatory BA for fiscal year 2004, and $3.4 billion in new mandatory BA for fiscal years 2004 through 2008. If it is discretionary, the adjustment would be made in the Appropriations Committee's 302(a) allocation for fiscal year 2004 because that allocation is made for only a single fiscal year. If the program includes both mandatory and discretionary components or if two bills are enacted, the maximum adjustment the committee may make in fiscal year 2004 is $890 million in BA.

*Section 311: Contingency procedure for surface transportation*

In section 311, the House resolution creates a contingency procedure to permit the Transportation and Infrastructure Committee to increase spending above the level in the budget resolution on highways, highway safety, and transit in the surface transportation reauthorization bill it will consider later this year, should additional resources be made available to the Highway Trust Fund. The offsets may take the form of an increase in receipts to the Highway Trust Fund or a reduction in mandatory outlays from the fund.

Subsection (a) creates a reserve fund that allows the Chairman of the House Budget Committee to adjust the allocation of BA to the Committee on Transportation and Infrastructure for any measure that reauthorizes surface transportation programs and provides new BA for highway and transit spending. The Budget Committee Chairman may make an adjustment to its allocation if the Transportation Committee reports a measure that exceeds the amounts specified in section 311. The adjustment may only be made if it is offset by changes in law, either included in same measure, or by previously enacted legislation. The changes in law may effect either direct spending or receipts must be appropriated to the Highway Trust Fund. The adjustment may be made in the BA allocation for fiscal year 2004 and the 5 year period, but the additional resources must offset the additional BA and corresponding outlays in each year.

Subsection (b) creates a reserve fund that allows the Chairman of the House Budget Committee to adjust the allocation of outlays to the Committee on Appropriations for any measure that sets total obligation limitations greater than $38.5 billion for fiscal year 2004 for spending from the Highway Trust Fund. In addition, the amount of the adjustment must be offset by increases in resources dedicated to the Highway Trust Fund in fiscal year 2004 as previously referred to in subsection (a).

*Senate Amendment*

In general, a reserve fund permits the Chairman of the Committee on the Budget to increase the section 302 allocation and other appropriate levels set out in this resolution (including in some cases—see sections 211 and 212—the discretionary spending limits) once certain conditions specified in the reserve fund have been met. The authority to make these adjustments is solely within the discretion of the Chairman and may be made when the specified committee of jurisdiction reports a measure that satisfies all the conditions set out in the reserve fund.

*Section 211: Adjustment for special education*

The Senate amendment contains a mechanism to make additional resources available to the Committee on Appropriations specifically for the Part B grant program under the Individuals with Disabilities Education Act (IDEA). The mechanism will make available an additional $205 million for fiscal year 2004 and $209 million for fiscal year 2005 after enactment of a bill reported by the Committee on Health, Education, Labor and Pensions reauthorizing IDEA and only if the appropriators provide more than the base amounts described in the reserve. Additionally, the amendment requires the reauthorization bill to provide an allowance of uniform discipline policies for all students; local fiscal relief; and to minimize the over-identification of students with disabilities.

*Section 212: Adjustment for highways and highway safety and transit*

The Senate amendment provides a mechanism to make additional resources available to the appropriate authorizing committees and the Committee on Appropriations for highway and transit programs once the reauthorization of the Transportation Equity Act for the 21st Century (TEA–21) is enacted, provided that the reauthorization includes new governmental receipts for the highway trust fund—without increasing the deficit. The amendment makes no assumption with respect to the floor procedures required to bring together the portions of this legislation that fall within the jurisdiction of various committees of the Senate. Therefore the amendment names all three authorizing committees (the Committee on the Environment and Public Works, the Committee on Banking, Housing and Urban Affairs and the Committee on Commerce, Science and Transportation). The amendment further assumes that the additional funding facilitated by this section will be provided in the form of new governmental receipts in a measure reported by the Committee on Finance, net of the 25% income tax offset as is customarily scored by the Joint Committee on Taxation.

*Section 213: Reserve fund for Medicare*

The Senate amendment provides up to $400 billion for the period of fiscal years 2004 through 2013 for legislation that improves the Medicare program and makes prescription drugs more accessible for those covered by Medicare. During the markup an amendment offered by Senator Feingold was agreed to which provides that the legislation may also promote geographic equity payments. The adjustment may be made only if the Committee on Finance reports a bill that strengthens and enhances the Medicare program as well as improves the access of beneficiaries to prescription drugs or promotes geographic equity.

*Section 214: Reserve fund for health insurance for the uninsured*

The Senate amendment provides up to $88 billion for the period of fiscal years 2004 through 2013 for legislation that provides health insurance for the uninsured. The adjustment may be made only if the Committee on Finance reports a bill that provides health insurance for the uninsured—which may include a measure providing for tax deductions for the purchase of health insurance for, among others, moderate income individuals not receiving health insurance from their employers.

*Section 215: Reserve fund for children with special needs*

The Senate amendment creates a reserve for legislation that provides states with the option to expand Medicaid coverage for children with special needs. The adjustment may be made only if the Committee on Finance reports a bill that does not exceed $43 million in new budget authority and $42 million in outlays for fiscal year 2004, and $7.462 billion in new budget authority and $7.262 billion in outlays for the period of fiscal years 2004 through 2013.

*Section 216: Reserve fund for Medicaid Reform*

The Senate amendment provides up to $12.782 billion through 2010 for legislation that reforms the Medicaid program. The adjustment may be made only if the Committee on Finance reports a bill that provides significant reform of the Medicaid program. The adjustments may be made only if the Finance Committee reports a bill that does not exceed $3.258 billion in new budget authority and outlays for 2004, $8.944 billion in new budget authority and outlays for the period of fiscal years 2004 through 2008, $12.782 billion in new budget authority and outlays for the period of fiscal years 2004 through 2010, and is deficit neutral for the period of fiscal years 2004 through 2013.

*Section 217: Reserve fund for Project Bioshield*

The Senate amendment provides up to $5.593 billion over the life of the resolution for legislation that facilitates procurement for inclusion by the Secretary of Health and Human Services in the Strategic National Stockpile of countermeasures necessary to protect the public health from current and emerging threats of chemical, biological, radiological, or nuclear agents. The adjustments may be made only if the Committee on Health Education, Labor and Pensions reports a bill that provides no more than $890 million in new budget authority (and $575 million in outlays) for fiscal year 2004 and $5.593 billion in new budget authority and outlays for the period of fiscal years 2004 through 2013.

*Section 218: Reserve fund for the state grant program and ANWR receipts*

The Senate amendment provides up to $250 million per year (beginning in fiscal year 2006) for legislation that provides additional resources for the state grant program funded from the Land and Water Conservation Fund. The adjustment is conditioned upon two events: the enactment of legislation that yields offsetting receipts (reflected in the resolution as a reduction in outlays) from the opening of the Arctic National Wildlife Refuge and subsequent reporting of a bill from the Committee on Energy and Natural Resources that dedicates a portion of these receipts to the Land and Water Conservation Trust Fund for the grant program.

*Section 219: Reserve fund for State Children's Health Insurance Program*

The Senate amendment provides up to $1.825 billion in new budget authority for legislation that extends the availability to states of expired State Children's Health Insurance Program allotments (from 1998 and 1999) and expiring 2000 allotments. The adjustments may be made only if the Committee on Finance reports a bill that provides no more than $1.26 billion in new budget authority (and $85 million in outlays) for fiscal year 2003, $1.33 billion in new budget authority (and $85 million in outlays) for fiscal year 2004, $1.95 billion in new budget authority (and $845 million in outlays) for the period of fiscal years 2003 through 2008, and $1.825 billion in new budget authority (and $975 million in outlays) for the period of fiscal years 2003 through 2013.

*Section 319: Reserve fund to strengthen Social Security*

Section 319 of the Senate amendment was adopted as part of an amendment that reduced to $350 billion the reconciliation instruction to the Committee on Finance. It purports to hold in reserve $396 billion to extend the solvency of the Social Security trust funds, but provides no policy directive for how to accomplish this. On its face, it would permit the Committee on Finance to spend $396 billion on any program so long as it was part of legislation that for instance, reduced benefits or increased the retirement age, and thus extended solvency.

Past practice has been to include the effect of the policies described in a reserve fund in the functional levels and aggregates of the budget resolution but to withhold the funds from the committee's 302(a) allocation. The language of section 319 does not conform to this model. Rather, it entirely eliminates the $396 billion from the budget—or in other words, reduces the deficit. If the authority in this section were invoked it would result in a $396 billion increase in the deficit. It is not clear, how a deficit increase would contribute to the solvency of Social Security trust funds.

*Section 329: Reserve fund for possible military action and reconstruction in Iraq*

Section 329 of the Senate amendment was adopted as part of an amendment that reduced the reconciliation instruction to the Finance Committee by $100 billion and thus increased taxes by $10 billion each year 2004 through 2013. It purports to hold this $100 billion in reserve for the Committee on Appropriations to pay for military action and reconstruction in Iraq over the period of 2003 through 2013. Because this reserve can only be triggered for an appropriations bill, it would more appropriately be a cap adjustment instead of a reserve fund.

Past practice has been to include the effect of the policies described in a reserve fund in the functional levels and aggregates of the budget resolution but to withhold the funds from the committee's 302(a) allocation. The language of section 329 does not conform to this model. Rather it entirely eliminates the $100 billion from the budget—or in other words, it reduces the deficit by that amount over the 10–year period ending in 2013. If the authority in this section were invoked, it would result in up to a $100 billion increase in the deficit.

*Conference Agreement*

*Section 401. Reserve Fund for Medicare*

Section 401 of the Conference Agreement permits the appropriate Budget Committee Chairman to adjust committee allocations and other appropriate budgetary aggregates and allocations for reported legislation (and amendments thereto, or any conference report thereon) for Medicare-related legislation.

Section 401(a) of the Conference Agreement establishes a Medicare reserve fund for the House. The reserve fund permits the Chairman of the Committee on the Budget to adjust the levels in the budget resolution to accommodate certain Medicare-related legislation. The Chairman may make an adjustment to the separate Medicare allocation to the Ways and Means Committee and the Energy and Commerce Committee for legislation that provides a prescription drug benefit and modernizes Medicare, and provides adjustments to the Medicare program on a fee-for-service, capitated, or other basis. The amount of the adjustment for this legislation may not exceed $7.0 billion in budget authority and outlays for fiscal year 2004 and $400 billion in budget authority and outlays for fiscal years 2004 through 2013. The adjustment is made to the separate allocation for Medicare, regardless of the committee that reports the measure.

Section 401(b) of the Conference Agreement sets forth a Medicare reserve fund for the Senate and also provides up to $400 billion for the period of fiscal years 2004 through 2013 for legislation that improves the Medicare program and makes prescription drugs more accessible for those covered by Medicare. The legislation may also promote geographic equity payments. The Chairman of the Committee on the Budget may make an adjustment only if the Committee on Finance reports a bill that strengthens and enhances the Medicare program as well as improves the access of beneficiaries to prescription drugs and does not exceed $7.0 billion in new budget authority and outlays for fiscal year 2004 and $400 billion fiscal years 2004–2013.

The Senate conferees recognize the need to enhance both the benefits and structure of the Medicare program in order to provide a better system for seniors. In addition to providing an integrated prescription drug benefit, the Conferees support efforts to take advantage of competition in order to enhance seniors' medical benefits which are currently lacking in our present system. This could include access to preventive care services, disease management and catastrophic protection against high hospital costs.

While considering benefit expansions, however, it is critical to recognize the long-term unfunded promises in the Medicare program. The President's budget submission includes sobering information on the extent of Medicare's long- term unfunded promises. According to the Medicare Trustees' most recent report, the Hospital Insurance Trust Fund is expected to be exhausted in 2026—four years earlier than estimated in the 2002 report.

Medicare actuaries project a 75–year unfunded promise to the HI fund of $5 trillion. However, this only tells half the story. It does not include the Part B program. Medicare beneficiary premiums only cover 25 percent of these costs. The remaining 75 percent of expenses are not covered by any specific or dedicated financing source. The Senate conferees believe it is artificial to separate Part A and B. Policy makers must look at the total expenditures for Medicare. From this perspective Medicare's unfunded promises are $13 trillion.

*Section 402. Reserve Fund for Medicaid Reform*

Section 402 of the Conference Agreement includes a reserve fund to reform the Medicaid program. Both the House resolution and the Senate amendment included reserve funds this general purpose. The reserve fund, which applies in both the House and the Senate, permits the appropriate Budget Committee Chairman to adjust the appropriate committee allocations of the Committee on Energy and Commerce in the House, or the Committee on Finance in the Senate, and other budgetary aggregates and allocations for reported legislation (and amendments thereto, or any conference report thereon) that modernizes Medicaid. The adjustments in the allocations may not exceed $3.258 billion in new BA and outlays for fiscal year 2004; and $8.944 billion in new BA and outlays for fiscal years 2004 through 2008, and $12.782 billion for fiscal years 2004 through 2010.

*Section 403. Reserve Fund for State Children's Health Insurance Program*

Section 403 of the Conference Agreement retains the reserve fund for the extension of the State Children's Health Insurance Program [SCHIP] included in section 219 of the Senate amendment. The reserve fund, which applies in both the House and the Senate, permits the appropriate Budget Committee Chairman to adjust the committee allocations for the Committee on Ways and Means in the House, or the Committee Finance in the Senate, and other appropriate budgetary aggregates and allocations for reported legislation (and amendments thereto, or any conference report thereon) that extends the availability of expired and expiring allotments of the State Children's Health Insurance Program [SCHIP]. The adjustments in the allocations may not exceed $1.260 billion in new BA and $85 million in outlays for fiscal year 2003; $1.350 billion in new BA and $105 million in outlays for fiscal year 2004; $1.355 billion in new BA and $1.425 million in outlays for fiscal year 2004 through 2008; and $1.355 billion in new BA and $1.680 million in outlays for the period of fiscal years 2004 through 2013.

*Section 404. Reserve Fund for Bioshield*

Section 404 of the Conference Agreement establishes separate procedures in the House and the Senate reserving amounts for legislation providing countermeasures to international terrorism.

Section 404(a) of the Conference Agreement adopts the reserve fund for bioshield included in section 303 the House resolution. The reserve fund permits the House Budget

Committee Chairman to adjust committee allocations and other appropriate budgetary aggregates and allocations for a reported measure (and amendments thereto, or any conference report thereon) that establishes either a new mandatory or discretionary program to accelerate the research, development, and purchase of biomedical threat countermeasures. If the program established is mandatory, the adjustment may not exceed $890 million in new mandatory BA for fiscal year 2004, and $3.418 billion in new BA and outlays for fiscal years 2004 through 2008. If the program authorized is discretionary, the adjustment may not exceed $890 million in new mandatory BA for the measure appropriating funds for the new program. If the program includes both mandatory and discretionary components or if two bills are enacted, the maximum adjustment the chairman may make in fiscal year 2004 is $890 million in BA.

Section 404(b) of the Conference Agreement adopts the reserve fund for bioshield included in section 217 of the Senate Amendment with minor modifications. The reserve fund permits the appropriate Budget Committee Chairman to adjust committee allocations and other appropriate budgetary aggregates and allocations for reported legislation (and amendments thereto, or any conference report thereon) that establishes a new mandatory program to accelerate the research, development, and purchase of biomedical threat countermeasures. For the adjustment to take place, the measure may provide no more than $890 million in new mandatory BA and $575 million in outlays for fiscal year 2004, and $5.593 billion in new mandatory BA and outlays for fiscal years 2004 through 2013.

*Section 405. Reserve Fund for Health Insurance for the Uninsured*

Section 405 of the Conference Agreement retains the Senate reserve fund for health insurance for the uninsured included in section 214 of the Senate amendment. The reserve fund permits the Chairmen of the respective Budget Committees to adjust the allocation of BA and outlays to the appropriate committee of jurisdiction in the House, or the Committee on Finance in the Senate, for any measure that provides health insurance for the uninsured (including a measure providing for tax deductions for the purchase of health insurance for, among others, moderate income individuals not receiving health insurance for from their employers). The adjustments in the allocations may not exceed $28.5 billion in new BA and outlays for fiscal years 2004 through 2008, and $50 billion in new BA and outlays for the period of fiscal years 2004 through 2013.

*Section 406. Reserve Fund for Children With Special Needs*

Section 406 of the Conference Agreement retains the reserve fund for children with special needs included in section 215 of the Senate amendment and which was accommodated in the allocations in the House resolution. The reserve fund, which applies in both the House and the Senate, permits the appropriate Budget Committee Chairman to adjust the committee allocations for the Committee on Energy and Commere in the House, or the Committee on Finance in the Senate, and other appropriate budgetary aggregates and allocations for reported legislation (and amendments thereto, or any conference report thereon) that provides states with the option to expand Medicaid coverage for children with special needs, allowing families of disabled children to purchase coverage under the Medicaid program for such children. The adjustments in the allocations may not exceed $43 million in BA and $42 million in outlays for fiscal year 2004, $1.627 billion in BA and $1.566 billion in outlays for the period of fiscal years 2004 through 2008. and $7.462 billion in BA and $7.262 billion in outlays for the period of fiscal years 2004 through 2013.

*Section 411. Contingency Procedure for Surface Transportation*

Section 411 of the Conference agreement establishes a separate contingency procedure for the Highway Trust Fund, which will be reauthorized this session of Congress. The contingency procedure, which applies in both the House and the Senate, permits the appropriate Budget Committee Chairman to accommodate legislation providing additional highway spending to the extent it is offset by additional revenues or a reduction in mandatory spending in the Highway Trust Fund. The procedure permits the Budget Committee Chairmen to increase the 302(a) allocation of the Committee on Transportation and Infrastructure in the House, or the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, or the Committee on Commerce, Science, and Transportation in the Senate, for legislation that provides in excess of the level assumed in the budget resolution but only to the extent to which it has been offset by new revenue or savings in mandatory outlays. The offsets must be dedicated to the Highway Trust Fund and can be made in the same measure or legislation enacted earlier in the 108th Congress. In view of the fact that outlays are determined by obligation limits, subsection (a) also permits the chairman to make a corresponding change in outlays for the committee setting the obligation limits. Again, legislation must have first been enacted to offset the increase in contract authority.

*Section 421. Supplemental Appropriations for Fiscal Year 2003*

If a measure making supplemental appropriations for fiscal year 2003 is enacted before May 1, 2003, the Chairmen of the Committees on the Budget are permitted to adjust the appropriate allocations and aggregates of budget authority and outlays in the budget resolution to reflect the difference between that measure and the levels assumed in that resolution. The Conference Agreement reflects the President's requested level of $74.7 billion.

BUDGET ENFORCEMENT

Under section 301 of the Budget Act, the budget resolution may include special procedures to enforce the spending and revenue levels contained in the resolution and the allocations found in the accompanying joint statement of managers.

*House Resolution*

*Section 301(c). Medicare 302(a) Allocation*

Section 301(c) creates a Medicare allocation to the Ways and Means Committee and Energy and Commerce Committee. Legislation changing the Medicare program must be offset in the first year and the 10–year period. This allocation may be increased should a reserve fund for specific Medicare modernization legislation be released. Such a measure must provide less than $7.5 billion in the first year, and no more than $400 billion over 10 years. If a measure receiving a Medicare allocation adjustment also includes budget authority not directly related to Medicare modernization, that non-Medicare spending will be compared to the committee of jurisdiction's allocation.

*Section 321. Application and Effects of Changes In Allocations and Aggregates*

This section sets forth the procedures for making adjustments pursuant to the reserve funds included in this resolution. Subsection (a)(1) and (2) provide that the adjustments may only be made during the interval that the legislation is under consideration and do not take effect until the legislation is actually enacted. This is approximately consistent with the procedures for making adjustments for various initiatives under section 314 of the Congressional Budget Act. Subsection (a)(3) provides that in order to make the adjustments provided for in the reserve funds, the chairman of the House Budget Committee is directed to insert these adjustments in the CONGRESSIONAL RECORD.

Subsection (b) clarifies that any adjustments made under any of the reserve funds in the resolution have the same effect as if they were part of the original levels set forth in section 101. Therefore the adjusted levels are used to enforce points of order against legislation inconsistent with the allocations and aggregates included in the concurrent resolution on the budget.

Subsection (c) clarifies that the House Budget Committee determines the levels and estimates used to enforce points of order, as is the case for enforcing budget-related points of order, and the determination is made pursuant to section 312 of the Budget Act. This section of the Budget Act provides the chairman of the Budget Committee with the authority to advise the chairman of the House on the appropriate levels and estimates related to legislation being considered on the floor.

Subsection (d) provides for 5-year enforcement periods. Though the authorizing committees receive a 10–year allocation, under Section 321 (d) of the House resolution, the Budget Committee will apply the various relevant provisions of the Congressional Budget Act for only the first and 5-year time period.

*Section 401. Restrictions on Advance Appropriations*

Section 401 imposes a limitation on advance appropriations similar to a provision included in the last several budget resolutions. It does two things: (1) It limits the total amount of advance appropriations; and (2) It limits the accounts for which advanced appropriations may be made. It establishes this procedure with regard to any advance appropriation for fiscal year 2004 and any year thereafter. An exception is provided for those programs specified in the Joint Statement of Managers, but the total advance appropriation must be lower than a specified level. The section defines an 'advance appropriation' as any new discretionary budget authority making general appropriations or continuing appropriations for fiscal year 2004 that first becomes available after 2004. This limitation is enforced by a point of order that may be raised against any measure including an advance appropriation not falling within the exception. The result of the point of order would be to remove the advance appropriation, but the measure would continue to be considered.

*Section 402. Compliance With Section 13301 of the Budget Enforcement Act of 1990*

Section 402 provides authority to include the administrative expenses related to Social Security in the allocation to the Appropriations Committee. This language is necessary to ensure that the Appropriations Committee retains control of administrative expenses through the Congressional budget process. In the 106th Congress, the Joint Leadership of the House and Senate Budget Committees decided to discontinue including administrative expenses in the budget resolution. This change was intended to make the budget resolution consistent with CBO's baseline which does not include administrative expenses for Social Security. At the same time, the Budget Committees believe that these expenses should continue to be reflected in the 302(a) allocations to the Appropriations Committee. Absent a waiver of section 302(a) of the Budget Act, the inclusion of these expenses in the allocation is construed as violating 302(a) of the Budget Act which states that the allocations must reflect the discretionary amounts in the budget resolution (and arguably, section 13301 of the Budget Enforcement Act, which states that Social Security benefits and revenues are off-budget).

*Senate Amendment*

*Section 201. Extension of supermajority enforcement*

The Senate amendment extends the 60-vote requirement for 5 years (until September 30, 2008), for waivers and appeals with respect to those Budget Act points of order for which this supermajority requirement expired on September 30, 2002 (and was temporarily extended through April 15, 2003 in S. Res. 304, 107th Congress).

*Section 202. Discretionary spending limits in the Senate*

The Senate amendment sets out discretionary spending limits for the Senate for the first two years covered by the budget resolution (FY 2004 and 2005) with respect to both budget authority and outlays. It also sets limits for FY 2003 because no FY 2003 budget resolution was ever adopted. Since the advent of statutory discretionary spending limits in 1990, a majority of budget resolution conference reports have included language dealing with ''congressional caps''.

The Senate amendment provides that the following amounts will be the discretionary spending limits:

For fiscal year 2003: $770.860 billion in new budget authority and $771.442 billion in outlays for the discretionary category; $31.264 billion in outlays for the highway category, and $1.436 billion in new budget authority and $6.551 billion in outlays for the transit category, for a total of $772.296 billion in new budget authority and $809.257 billion in outlays.

For fiscal year 2004: $788.459 billion in new budget authority and $797.890 billion in outlays for the discretionary category; $32.016 billion in outlays for the highway category, and $2.209 billion in new budget authority and $6.746 billion in outlays for the transit category, for a total of $790.668 billion in new budget authority and $836.652 billion in outlays.

For fiscal year 2005: $813.597 billion in new budget authority and $814.987 billion in outlays for the discretionary category; $34.665 billion in outlays for the highway category, and $2.544 billion in new budget authority and $7.109 billion in outlays for the transit category, for a total of $816.141 billion in new budget authority and $856.761 billion in outlays.

The Senate amendment also provides for a number of so-called cap adjustments. The cap adjustments permit the Chairman of the Committee on the Budget to increase the spending limit, the section 302(a) allocations to the Committee on Appropriations, and any other appropriate levels in the resolution if an appropriations bill provides additional resources for the programs specified in the adjustment. The Senate amendment provides that spending and allocations may be adjusted for: (1) emergency spending, (2) funding for Part B grants under the Individuals with Disabilities Education Act (IDEA), and (3) highway and transit programs.

These discretionary spending limits are enforced by a 60-vote point of order on two fronts: (1) there will be a point of order against the FY 2005 budget resolution if it exceeds the limits set forth in this resolution (or against any revision to the FY 2004 resolution that does so) and (2) there will be a point of order against any appropriations bill that causes the discretionary limits to be exceeded.

*Section 203. Restriction on advance appropriations in the Senate*

The Senate amendment once again includes language limiting the use of advance appropriations. This restriction was first included in the FY 2001 budget resolution and was included and revised in the FY 2002 resolution as well. The Senate amendment continues to limit advance appropriations to an annual limit of $23.158 billion with respect to both the FY 2004 and 2005 appropriations bills and to those programs, which are listed in the statement of managers accompanying the conference report on the budget resolution. The amendment also continues the exception for advances with respect to the Corporation for Public Broadcasting.

The list of permissible advances is as follows:

ACCOUNTS IDENTIFIED FOR ADVANCE APPROPRIATIONS

Interior

Elk Hills

Labor, HHS

Employment and Training Administration
Education for the Disadvantaged
School Improvement
Children and Family Services (Head Start)
Special Education
Vocational and Adult Education

Treasury, Postal

Payment to Postal Service

Veterans', HUD

Section 8 Renewals

*Section 204. Emergency legislation*

With respect to emergency spending, the Senate amendment addresses two issues: the ability to designate spending as an emergency and the restatement of the 60-vote point of order in the Senate with respect to the use of that designation.

The authority to designate spending as an ''emergency'' existed as a part of the statutory discretionary spending limits and the pay-as-you-go rules set out in sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. The purpose of the designation was to create a ''safety valve'' for unexpected, emergency expenditures with respect to the sequestration mechanism which served as the underlying enforcement mechanism for the caps and PAYGO. With the expiration of section 251 on September 30, 2002 and the de facto expiration of section 252 by virtue of setting the scorecard to zero for all fiscal years, the Senate amendment reestablishes the authority of Congress to designate spending and revenue changes as an emergency. In doing so, the resolution specifies the criteria used in the definition of an emergency and requires committee reports and statements of managers to justify the use of emergency designations vis a vis these criteria. The criteria are as follows:

An expenditure may be designated an emergency if it is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) unforeseen (see below), unpredictable, and unanticipated;

Note: an emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

If an item of discretionary spending is accompanied by an emergency designation then the discretionary spending limit and the allocation to the Committee on Appropriations will be adjusted accordingly (as well as all other appropriate levels in the resolution). If a revenue reduction or mandatory spending increase is accompanied by an emergency designation, then the committee allocation and the Senate's pay-go scorecard will be adjusted accordingly (again, as well as all other appropriate levels in the resolution).

The Senate amendment also revises the Senate's emergency designation point of order. This point of order was first included in the FY 2000 budget resolution. This point of order allows any member to question the use of an emergency designation while the bill, amendment or conference report containing the designation is before the Senate. Once the point of order is made, it will require 60-votes to waive the point of order and keep the designation. If the motion to waive is not successful, the designation is removed from the measure while the spending or revenue provision remains, potentially making the measure subject to a Budget Act point of order, which too would require 60-votes to overcome. The removal of the designation is accomplished by the same method as provided for in the Byrd Rule (section 313 of the Congressional Budget Act).

The language in the Senate amendment differs from past resolutions only to the extent that the references to sections 251 and 252 of the BBEDCA have been replaced with a cross reference to subsection (a) of this section, which provides the authority for the use of the designation. In addition, spending for homeland security programs would be exempt from the point of order as has been the case with defense spending.

*Section 205. Pay-as-you-go point of order in the Senate*

The Senate amendment revises and extends the Senate's pay-as-you-go point of order. The original pay-as-you-go point of order first appeared in the FY 1994 budget resolution. Its most recent incarnation expired in its entirety on September 30, 2002. The point of order was revised and extended in S. Res. 304 (107th Congress) through April 15, 2003. S. Res 304 included a new provision within the pay-as-you-go rule making the rule applicable to mandatory spending in appropriation bills in order to prevent the exploitation of the fact that there were no limits on discretionary spending for FY 2003 due to the expiration of the discretionary spending limits and the lack of a FY 2003 budget resolution.

The pay-as-you-go point of order included in the Senate amendment does not retain the expanded application to appropriation bills set out in S. Res. 304. Rather it resembles the previous versions of the rule with one specific exception: it will not apply to any spending or revenue changes that result from the implementation of the reconciliation instruction set out in section 104 of the Senate amendment (up to $350 billion). It will nonetheless apply to all other mandatory spending and revenue changes provided for in the Senate amendment.

*Section 221. Authority to make adjustments for changes in concepts and definitions*

The Senate amendment provides that upon enactment of legislation that changes the nature of funding of an existing program from discretionary to mandatory (or vice versa), the Chairman of the Committee on the Budget will immediately adjust the levels in this resolution (including the discretionary spending limits) to reflect such a change.

*Section 222. Application and effect of changes in allocations and aggregates*

The Senate amendment contains language identical to section 221 of the FY 2002 budget resolution, which makes clear when adjustments made under Title II of the budget resolution will take effect.

*Section 223. Exercise of Rulemaking Powers*

The Senate amendment includes language identical to section 222 of the FY 2002 budget resolution which simply states Congress' authority to legislate rule of procedure for either chamber.

*Conference Agreement*

*Section 501. Restrictions on advance appropriations*

Section 501 of the Conference Agreement retains the language of both section 401 of the House resolution and section 203 of the Senate amendment.

Subsection (a) applies to the House; it limits which programs may receive an advance appropriation and an overall amount of advanced appropriations. Advance appropriations may be provided for the accounts in the appropriation bills listed below, provided that their sum does not exceed $23.158 billion in budget authority. Advance appropriations are defined as any discretionary budget authority in a measure for fiscal year 2004 which first becomes available in a year after that fiscal year. This limitation is enforced by a point of order that may be raised against any measure including an advance appropriation not falling within the exception. The result of the point of order would be to remove the advance appropriation, but the measure would continue to be considered.

ACCOUNTS IDENTIFIED FOR ADVANCED APPROPRIATIONS

*Part A: Advanced Appropriations for Fiscal Year 2005*

Interior Appropriations

Elk Hills (89 5428 02 271)

Labor, Health and Human Services, Education Appropriations

Employment and Training administration (16 0174 01 504)
Education for the Disadvantaged (91 0900 01 501)
School Improvement (91 1000 01 501)
Children and Family Services [Head Start] (75 1536 01 506)
Special Education (91 0300 01 501)
Vocational and Adult Education (91 0400 01 501)

Treasury, General Government Appropriations

Payment to Postal Service (18 1001 01 372)

Veterans, Housing and Urban Development Appropriations

Section 8 Renewals (86 0319 01 604)

*Part B: Advanced Appropriations for Fiscal Year 2006*

Labor, Health and Human Services, Education Appropriations

Corporation for Public Broadcasting (20 0151 01 503)

Subsection (b) applies in the Senate and is virtually identical to the language in section 203 of the Senate amendment and sets an overall limit of $23.158 billion per year. The Conference Agreement modifies the Senate language only to the extent that the explicit exception for the Corporation for Public Broadcasting is moved from the text of the resolution to the list set out below. A conforming change is made to the definition of an advance appropriation to make clear that its inclusion on the list below, covers the advance for both the 1st and 2nd years.

The list of permissible advances is as follows:

ACCOUNTS IDENTIFIED FOR ADVANCE APPROPRIATIONS

Interior

Elk Hills (89 5428 02 271)

Labor, HHS

Corporation for Public Broadcasting (20 0151 01 503)
Employment and Training Administration (16 0174 01 504)
Education for the Disadvantaged (91 0900 01 501)
School Improvement (91 1000 01 501)
Children and Family Services (Head Start) (75 1536 01 506)
Special Education (91 0300 01 501)
Vocational and Adult Education (91 0400 01 501)

Treasury, Postal

Payment to Postal Service (18 1001 01 372)

Veterans', HUD

Section 8 Renewals (86 0319 01 604)

*Section 502. Emergency legislation*

Section 502 the House recedes to the Senate on its regimen relating to the budgetary treatment of emergencies. With some modifications, it extends to the House the authority of Congress to designated spending-related legislation as an emergency for purposes of budget enforcement, adopts criteria for emergency spending, and requires committees to justify emergency-designated provisions. The point of order in the Senate amendment, however, continues to apply only to the Senate.

Section 502(a) of the Conference Agreement includes a statement of intent that, in the absence of the extension of the discretionary spending limits and PAYGO requirements under the Balanced Budget and Emergency Deficit Control Act of 1985, the section enables Congress to designate provisions of legislation as emergencies. The House conferees note that this regimen is similar to H.R. 853, which was reported by the House Budget Committee in the 106th Congress.

Subsections (b) sets forth the procedure in the House governing emergencies designated spending (or receipts). It extends the automatic exemption for emergency-designated spending (and receipts) from the budget resolution, which was in effect until the statutory discretionary spending limits and PAYGO requirements expired last September. If an urgent need arises after the budget resolution is adopted, the committee of jurisdiction could designate the emergency-related provisions as an emergency requirement pursuant to this section.

Instead of adjusting the allocations and budget aggregates by the designated amount, subsection (b) provides that spending (or receipts) resulting from such measure would not be counted for purposes of determining whether the measure complies with the budget resolution or related requirements under the Budget Act of 1974. The conferees note that this is consistent with congressional scoring conventions prior to the Balanced Budget Act of 1997. Assuming the measure is otherwise in compliance with the budget resolution, it would not be subject to a point of order under sections 302(f), 303(a), 311(a) or 401 of the Congressional Budget Act of 1974. The same would be true with a violation of * * *

In subsection (b)(2), committees reporting legislation that includes an emergency designation are required to include in the accompanying report, or the conference committee in the joint statement of managers, a statement justifying the emergency designation on the basis of the following criteria:

Necessary, essential, or vital;

Sudden, quickly coming into being and building up over time;

Urgent, pressing and completing need requiring immediate action;

Unforeseen unpredictable and anticipated; and

Not permanent, temporary in nature.

The conferees note that this definition was originally developed by the previous Bush Administration as part of an OMB Circular (A–11) on the preparation and submission of budget estimates.

Section 502(c) of the Conference Agreement retains the language of section 204 of the Senate amendment (which provides the authority to use an emergency designation and creates a supermajority point of order to police the use of the designation) with a number of modifications.

The Conference Agreement strengthens the requirement that committees in both Houses provide a justification for use of the designation vis a vis the criteria listed in subsection (b)(2) and (c)(3).

The point of order with respect to the use of the designation applies only in the Senate and contains some technical changes with respect to the execution of the point of order that were recommended by the Parliamentarian of the Senate. It is the view of the Conferees that the exception for ''homeland security'' spending could not be included at this time due to the lack of consensus between the Congress and the Executive branch as to exactly what programs, projects or activities should qualify for the exception. It may be possible to do so in the future.

*Section 503. Extension of supermajority enforcement*

Section 503 of the Conference Agreement retains the language of section 201 of the Senate amendment extending 60-vote enforcement for five years.

*Section 504. Discretionary spending limits in the Senate*

Section 504 of the Conference Agreement retains the language of section 202 of the Senate amendment which sets forth discretionary spending limits in the Senate only for fiscal years 2003, 2004 and 2005 with a number of modifications. The limits BA for FY 2003 now include the amounts included in the supplemental appropriations bill that is being considered at the same time as the conference on the budget resolution, with outlays reflected accordingly.

The Conference Agreement provides that the following amounts will be the discretionary spending limits in the Senate:

For fiscal year 2003: $839.118 billion in new budget authority and $805.146 billion in outlays for the discretionary category; $31.264 billion in outlays for the highway category, and $1.436 billion in new budget authority and $6.551 billion in outlays for the transit category, for a total of $840.554 billion in new budget authority and $842.961 billion in outlays.

For fiscal year 2004: $782.999 billion in new budget authority and $822.563 billion in outlays for the discretionary category; $31.555 billion in outlays for the highway category, and $1.461 billion in new budget authority and $6.634 billion in outlays for the transit category, for a total of $784.460 billion in new budget authority and $860.752 billion in outlays.

For fiscal year 2005: $812.598 billion in new budget authority and $817.883 billion in outlays for the discretionary category; $33.393 billion in outlays for the highway category, and $1.488 billion in new budget authority and $6.726 billion in outlays for the transit category, for a total of $814.086 billion in new budget authority and $858.002 billion in outlays.

The Conference Agreement also provides that these limits may be adjusted for emergency spending (pursuant to section 502) and for additional resources for transportation (pursuant to section 411).

*Section 505. pay-as-you-go point of order in the Senate*

The Senate pay-as-you-go point of order included in the Conference Agreement reflects the language in the Senate-reported resolution and will apply on a post-budget resolution policy basis; that is, it will not apply to direct spending or revenue changes assumed in this resolution. To accomplish this, a scorecard will be maintained by the Chairman of the Committee on the Budget that will set out the total level of change to the deficit assumed by this budget resolution Conference Agreement. Subsequent legislation will be measured against these balances.

The following table shows the total of revenue and direct spending policy assumptions in the Conference Agreement on the budget resolution:

PAY GO SCORE CARD

| | |
|---|---|
| 2003 | 64.789 |
| 2004 | 155.946 |
| 2005 | 149.364 |
| 2006 | 133.611 |
| 2007 | 119.017 |
| 2008 | 121.625 |
| 2009 | 85.416 |
| 2010 | 87.650 |
| 2011 | 218.726 |
| 2012 | 302.840 |
| 2013 | 316.973 |
| 2004–08 | 679.563 |
| 2004–13 | 1691.168 |

*Section 506. Compliance with Section 13301 of the Budget Enforcement Act of 1990*

Section 506 retains the language of section 402 of the House resolution regarding the budgetary treatment in the House of discretionary spending for the Social Security Administration.

*Section 507. Application and Effect of Changes in Allocations and Aggregates*

Section 507 of the Conference Agreement retains the language of section 321 of the House resolution (which is virtually identical to Section 204 of the Senate amendment) clarifying the process for implementing any adjustment made pursuant to the reserve funds and the status of these adjusted levels. It further clarifies that the Budget Committee determines scoring for purposes of points of order. The section also makes clear that, for the purpose of enforcing provisions of the Congressional Budget Act in the House, legislation must be within a reporting committee's allocation for fiscal year 2004 and the period of fiscal years 2004 through 2008.

*Section 508. Adjustments to Reflect Changes in Concepts and Definitions*

Section 508 of the Conference Agreement retains the language of section 221 of the Senate amendment and applies it to the House. It provides that upon enactment of legislation that changes funding of an existing program from discretionary to mandatory (or vice versa), the Chairman of the Committee on the Budget will immediately adjust the levels in this resolution (including the discretionary spending limits) to reflect such a change.

ALLOCATIONS

As required in section 302 of the Congressional Budget Act, the joint statement of managers includes an allocation, based on the Conference Agreement, of total budget authority and total budget outlays among each of the appropriate committees. The allocations are as follow:

ALLOCATION OF SPENDING AUTHORITY TO HOUSE APPROPRIATIONS COMMITTEE

[In millions of dollars]

| | 2003 | 2004 |
|---|---|---|
| Discretionary Action: | | |
| BA | 840,554 | 784,460 |
| OT | 842,961 | 860,752 |
| Current Law Mandatory: | | |
| BA | 391,344 | 426,127 |
| OT | 378,717 | 409,870 |

ALLOCATIONS OF SPENDING AUTHORITY TO HOUSE COMMITTEES OTHER THAN APPROPRIATIONS

[Dollars in millions]

| Fiscal year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Agriculture Committee: | | | | | | | | | | | | | |
| Current Law | | | | | | | | | | | | | |
| BA | 19,840 | 20,509 | 22,792 | 22,501 | 21,709 | 20,518 | 5,720 | 5,897 | 6,014 | 6,028 | 5,991 | 108,029 | 137,679 |
| OT | 15,480 | 16,561 | 19,201 | 19,449 | 18,467 | 17,078 | 2,734 | 3,151 | 3,429 | 3,754 | 3,712 | 90,756 | 107,536 |
| Reauthorizations: | | | | | | | | | | | | | |
| BA | | | | | | 26,803 | 43,206 | 43,226 | 43,260 | 43,405 | 43,736 | 26,803 | 243,636 |
| OT | | | | | | 25,586 | 43,169 | 43,188 | 43,221 | 43,367 | 43,696 | 25,586 | 242,227 |
| Total: | | | | | | | | | | | | | |
| BA | 19,840 | 20,509 | 22,792 | 22,501 | 21,709 | 47,321 | 48,926 | 49,123 | 49,274 | 49,433 | 49,727 | 134,832 | 381,315 |
| OT | 15,480 | 16,561 | 19,201 | 19,449 | 18,467 | 42,664 | 45,903 | 46,339 | 46,650 | 47,121 | 47,408 | 116,342 | 349,763 |
| Armed Services Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 74,000 | 77,493 | 80,663 | 83,445 | 86,350 | 89,324 | 92,292 | 95,417 | 98,608 | 101,899 | 105,348 | 417,275 | 910,839 |
| OT | 73,476 | 77,295 | 80,459 | 83,291 | 86,195 | 89,166 | 92,132 | 95,253 | 98,438 | 101,723 | 105,167 | 416,406 | 909,119 |
| Discretionary Action: | | | | | | | | | | | | | |
| BA | | 70 | | | | | | | | | | 70 | 70 |
| OT | | 34 | 32 | 4 | | | | | | | | 70 | 70 |
| Total: | | | | | | | | | | | | | |
| BA | 74,000 | 77,563 | 80,663 | 83,445 | 86,350 | 89,324 | 92,292 | 95,417 | 98,608 | 101,899 | 105,348 | 417,345 | 910,909 |
| OT | 73,476 | 77,329 | 80,491 | 83,295 | 86,195 | 89,166 | 92,132 | 95,253 | 98,438 | 101,723 | 105,167 | 416,476 | 909,189 |
| Committee on Education and the Workforce: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 5,069 | 4,809 | 5,666 | 6,357 | 6,656 | 6,887 | 7,091 | 7,273 | 7,452 | 7,630 | 7,885 | 30,375 | 67,706 |
| OT | 4,516 | 4,121 | 5,053 | 5,637 | 5,942 | 6,212 | 6,401 | 6,572 | 6,733 | 6,897 | 7,138 | 26,965 | 60,706 |
| Discretionary Action: | | | | | | | | | | | | | |
| BA | 130 | 39 | 38 | 38 | 43 | 43 | 42 | 45 | 44 | 44 | 43 | 201 | 419 |
| OT | 115 | 47 | 47 | 47 | 52 | 52 | 52 | 57 | 57 | 57 | 57 | 245 | 525 |
| Reauthorizations: | | | | | | | | | | | | | |
| BA | | 393 | 404 | 415 | 3,503 | 3,583 | 3,667 | 3,664 | 3,843 | 3,933 | 4,027 | 8,298 | 27,432 |
| OT | | 330 | 402 | 413 | 2,422 | 3,419 | 3,629 | 3,728 | 3,816 | 3,906 | 3,999 | 6,986 | 26,064 |
| Total: | | | | | | | | | | | | | |
| BA | 5,199 | 5,241 | 6,108 | 6,810 | 10,202 | 10,513 | 10,800 | 10,982 | 11,339 | 11,607 | 11,955 | 38,874 | 95,557 |
| OT | 4,631 | 4,498 | 5,502 | 6,097 | 8,416 | 9,683 | 10,082 | 10,357 | 10,606 | 10,860 | 11,194 | 34,196 | 87,295 |
| Energy and Commerce Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 10,433 | 10,710 | 11,718 | 11,824 | 12,845 | 7,807 | 7,773 | 7,882 | 8,009 | 8,099 | 8,234 | 54,904 | 94,901 |
| OT | 11,987 | 12,071 | 11,900 | 12,003 | 12,455 | 10,289 | 8,154 | 7,719 | 7,615 | 7,732 | 7,849 | 58,718 | 97,787 |
| Discretionary Action: | | | | | | | | | | | | | |
| BA | | −170 | −480 | −910 | 1,250 | 749 | −1,996 | −2,161 | −2,296 | −4,780 | −4,904 | 439 | −15,698 |
| OT | | −170 | −480 | −910 | 1,250 | 749 | −1,996 | −2,161 | −2,296 | −4,780 | −4,904 | 439 | −15,698 |
| Reauthorizations: | | | | | | | | | | | | | |
| BA | | | | | | 5,040 | 5,040 | 5,040 | 5,040 | 5,040 | 5,040 | 5,040 | 30,240 |
| OT | | | | | | 2,345 | 4,470 | 5,130 | 5,446 | 5,465 | 5,443 | 2,345 | 28,299 |
| Total: | | | | | | | | | | | | | |
| BA | 10,433 | 10,540 | 11,238 | 10,914 | 14,095 | 13,596 | 10,817 | 10,761 | 10,753 | 8,359 | 8,370 | 60,383 | 109,443 |
| OT | 11,987 | 11,901 | 11,420 | 11,093 | 13,705 | 13,383 | 10,628 | 10,688 | 10,765 | 8,417 | 8,388 | 61,502 | 110,388 |
| Financial Services Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 6,100 | 7,406 | 8,430 | 8,365 | 7,702 | 7,558 | 7,456 | 7,568 | 7,795 | 7,938 | 8,170 | 39,461 | 78,388 |
| OT | 1,951 | 2,139 | 2,740 | 1,921 | 894 | 650 | 435 | 170 | −228 | −622 | −619 | 8,344 | 7,480 |
| Discretionary Action: | | | | | | | | | | | | | |
| BA | | | | | | | | | | | | | |
| OT | | 375 | 525 | 575 | 50 | −275 | −275 | −300 | −300 | −200 | | 1,250 | 175 |
| Total: | | | | | | | | | | | | | |
| BA | 6,100 | 7,406 | 8,430 | 8,365 | 7,702 | 7,558 | 7,456 | 7,568 | 7,795 | 7,938 | 8,170 | 39,461 | 78,388 |
| OT | 1,951 | 2,514 | 3,265 | 2,496 | 944 | 375 | 160 | −130 | −528 | −822 | −619 | 9,594 | 7,655 |
| Government Reform Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 66,645 | 68,243 | 71,550 | 74,376 | 77,325 | 80,696 | 84,320 | 88,242 | 92,163 | 95,997 | 99,999 | 372,190 | 832,911 |
| OT | 65,140 | 66,710 | 70,071 | 72,959 | 75,902 | 79,272 | 82,863 | 86,817 | 90,798 | 94,705 | 98,875 | 364,914 | 818,972 |
| Discretionary Action: | | | | | | | | | | | | | |
| BA | | −1 | | −1 | | −1 | −1 | −1 | −1 | −1 | −1 | −3 | −8 |
| OT | | | | | −1 | | −1 | −1 | −1 | −1 | −1 | −1 | −6 |
| Total: | | | | | | | | | | | | | |
| BA | 66,645 | 68,242 | 71,550 | 74,375 | 77,325 | 80,695 | 84,319 | 88,241 | 92,162 | 95,996 | 99,998 | 372,187 | 832,903 |

ALLOCATIONS OF SPENDING AUTHORITY TO HOUSE COMMITTEES OTHER THAN APPROPRIATIONS—Continued

[Dollars in millions]

| Fiscal year | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004–08 | 2004–13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| OT | 65,140 | 66,710 | 70,071 | 72,959 | 75,901 | 79,272 | 82,862 | 86,816 | 90,797 | 94,704 | 98,874 | 364,913 | 818,966 |
| Committee on House Administration: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 82 | 82 | 83 | 82 | 81 | 80 | 79 | 79 | 79 | 79 | 79 | 408 | 803 |
| OT | 85 | 246 | 38 | 23 | 54 | 213 | 79 | 61 | 55 | 208 | 48 | 574 | 1,025 |
| International Relations Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 13,633 | 9,825 | 11,398 | 12,424 | 12,665 | 12,912 | 13,162 | 13,417 | 13,679 | 13,911 | 14,147 | 59,224 | 127,540 |
| OT | 11,441 | 11,746 | 10,704 | 10,749 | 11,052 | 11,374 | 11,680 | 11,953 | 12,231 | 12,503 | 12,810 | 55,625 | 116,802 |
| Resources Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 3,832 | 3,840 | 3,676 | 3,740 | 3,739 | 3,050 | 2,981 | 3,039 | 3,112 | 3,196 | 3,272 | 18,045 | 33,645 |
| OT | 3,412 | 3,437 | 3,200 | 3,540 | 3,585 | 3,145 | 2,969 | 2,912 | 2,965 | 3,040 | 3,098 | 16,907 | 31,891 |
| Discretionary Action: | | | | | | | | | | | | | |
| BA | 7 | 24 | 118 | 124 | 126 | 130 | 133 | 137 | 139 | 143 | 146 | 522 | 1,220 |
| OT | 7 | 24 | 9 | 76 | 109 | 124 | 127 | 129 | 132 | 134 | 139 | 342 | 1,003 |
| Total: | | | | | | | | | | | | | |
| BA | 3,839 | 3,864 | 3,794 | 3,864 | 3,865 | 3,180 | 3,114 | 3,176 | 3,251 | 3,339 | 3,418 | 18,567 | 34,865 |
| OT | 3,419 | 3,461 | 3,209 | 3,616 | 3,694 | 3,269 | 3,096 | 3,041 | 3,097 | 3,174 | 3,237 | 17,249 | 32,894 |
| Judiciary Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 5,914 | 6,942 | 5,749 | 5,783 | 5,862 | 5,959 | 6,154 | 6,263 | 6,366 | 6,466 | 6,582 | 30,295 | 62,126 |
| OT | 5,870 | 6,082 | 6,101 | 5,985 | 5,838 | 5,888 | 6,065 | 6,137 | 6,218 | 6,306 | 6,418 | 29,894 | 61,038 |
| Discretionary Action: | | | | | | | | | | | | | |
| BA | .......... | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 95 | 190 |
| OT | .......... | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 95 | 190 |
| Total: | | | | | | | | | | | | | |
| BA | 5,914 | 6,961 | 5,768 | 5,802 | 5,881 | 5,978 | 6,173 | 6,282 | 6,385 | 6,485 | 6,601 | 30,390 | 62,316 |
| OT | 5,870 | 6,101 | 6,120 | 6,004 | 5,857 | 5,907 | 6,084 | 6,156 | 6,237 | 6,325 | 6,437 | 29,989 | 61,228 |
| Transportation and Infrastructure Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 69,531 | 8,038 | 14,449 | 13,581 | 13,345 | 13,583 | 13,804 | 14,129 | 14,407 | 14,798 | 15,284 | 62,996 | 135,418 |
| OT | 30,724 | 13,244 | 14,935 | 13,854 | 13,503 | 13,642 | 13,835 | 14,136 | 14,403 | 14,793 | 15,283 | 69,178 | 141,628 |
| Discretionary Action: | | | | | | | | | | | | | |
| BA | .......... | 9,256 | 5,890 | 6,868 | 8,942 | 10,178 | 10,965 | 9,983 | 10,000 | 10,019 | 10,038 | 41,134 | 92,139 |
| OT | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... |
| Reauthorizations: | | | | | | | | | | | | | |
| BA | .......... | 40,231 | 40,231 | 40,231 | 40,231 | 40,231 | 40,231 | 40,231 | 40,231 | 40,231 | 40,231 | 201,155 | 402,310 |
| OT | .......... | 173 | 441 | 550 | 588 | 613 | 626 | 639 | 639 | 639 | 639 | 2,365 | 5,547 |
| Total: | | | | | | | | | | | | | |
| BA | 69,531 | 57,525 | 60,570 | 60,680 | 62,518 | 63,992 | 65,000 | 64,343 | 64,638 | 65,048 | 65,553 | 305,285 | 629,867 |
| OT | 30,724 | 13,417 | 15,376 | 14,404 | 14,091 | 14,255 | 14,461 | 14,775 | 15,042 | 15,432 | 15,922 | 71,543 | 147,175 |
| Science Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 130 | 55 | 56 | 57 | 59 | 60 | 61 | 63 | 65 | 67 | 68 | 287 | 611 |
| OT | 122 | 123 | 120 | 90 | 72 | 60 | 60 | 62 | 64 | 65 | 67 | 465 | 783 |
| Small Business Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 864 | 3 | 1 | 1 | 1 | .......... | .......... | .......... | .......... | .......... | .......... | 6 | 6 |
| OT | 792 | −6 | .......... | .......... | .......... | −1 | −1 | −1 | −1 | −1 | −1 | −7 | −12 |
| Veterans' Affairs Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 1,171 | 1,311 | 1,297 | 1,310 | 1,319 | 1,324 | 1,310 | 1,291 | 1,254 | 1,207 | 1,158 | 6,561 | 12,781 |
| OT | 1,042 | 1,217 | 1,228 | 1,250 | 1,262 | 1,270 | 1,262 | 1,250 | 1,224 | 1,185 | 1,142 | 6,227 | 12,290 |
| Reauthorizations: | | | | | | | | | | | | | |
| BA | .......... | 429 | 1,129 | 1,766 | 2,254 | 3,080 | 3,791 | 4,540 | 5,657 | 5,566 | 6,750 | 8,658 | 34,962 |
| OT | .......... | 419 | 1,129 | 1,746 | 2,231 | 3,072 | 3,773 | 4,481 | 5,636 | 5,505 | 6,688 | 8,597 | 34,680 |
| Total: | | | | | | | | | | | | | |
| BA | 1,171 | 1,740 | 2,426 | 3,076 | 3,573 | 4,404 | 5,101 | 5,831 | 6,911 | 6,773 | 7,908 | 15,219 | 47,743 |
| OT | 1,042 | 1,636 | 2,357 | 2,996 | 3,493 | 4,342 | 5,035 | 5,731 | 6,860 | 6,690 | 7,830 | 14,824 | 46,970 |
| Ways and Means Committee: | | | | | | | | | | | | | |
| Current Law: | | | | | | | | | | | | | |
| BA | 728,516 | 728,732 | 792,780 | 855,434 | 906,045 | 955,712 | 1,009,838 | 1,064,521 | 1,123,340 | 1,164,783 | 1,214,151 | 4,238,703 | 9,815,336 |
| OT | 731,399 | 732,853 | 796,856 | 852,561 | 906,718 | 956,342 | 1,010,200 | 1,065,527 | 1,127,592 | 1,162,020 | 1,215,640 | 4,245,330 | 9,826,309 |
| Discretionary Action: | | | | | | | | | | | | | |
| BA | 4,444 | 1,334 | 4,458 | 3,862 | 3,343 | 2,608 | 2,145 | 168 | −2,219 | 9,076 | 8,323 | 15,605 | 33,098 |
| OT | 4,380 | 762 | 4,486 | 3,890 | 3,483 | 2,781 | 2,133 | 221 | −2,205 | 9,087 | 8,327 | 15,402 | 32,965 |
| Reauthorizations: | | | | | | | | | | | | | |
| BA | 3,417 | 16,889 | 16,889 | 16,889 | 16,889 | 17,788 | 17,808 | 17,829 | 17,851 | 17,873 | 17,897 | 85,344 | 174,602 |
| OT | 3,025 | 15,000 | 17,250 | 17,700 | 17,300 | 17,298 | 17,747 | 17,819 | 17,840 | 17,863 | 17,886 | 84,548 | 173,703 |
| Total: | | | | | | | | | | | | | |
| BA | 736,377 | 746,955 | 814,127 | 876,185 | 926,277 | 976,108 | 1,029,791 | 1,082,518 | 1,138,972 | 1,191,732 | 1,240,371 | 4,339,652 | 10,023,036 |
| OT | 738,804 | 748,615 | 818,592 | 874,151 | 927,501 | 976,421 | 1,030,080 | 1,083,567 | 1,143,227 | 1,188,970 | 1,241,853 | 4,345,280 | 10,032,977 |
| Medicare: | | | | | | | | | | | | | |
| Discretionary Action (Reserve Fund): | | | | | | | | | | | | | |
| BA | .......... | 7,000 | na | na | na | na | na | na | na | na | na | na | 400,000 |
| OT | .......... | 7,000 | na | na | na | na | na | na | na | na | na | na | 400,000 |

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT: BUDGET YEAR TOTAL 2003

[Millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations acts | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Appropriations: | | | | |
| General purpose discretionary | 839,118 | 805,146 | .......... | .......... |
| Memo: | | | | |
| On-budget | 835,306 | 801,308 | .......... | .......... |
| Off-budget | 3,812 | 3,838 | .......... | .......... |
| Highways | .......... | 31,264 | .......... | .......... |
| Mass transit | 1,436 | 6,551 | .......... | .......... |
| Mandatory | 391,344 | 378,717 | .......... | .......... |
| Total | 1,231,898 | 1,221,678 | .......... | .......... |
| Agriculture, Nutrition, and Forestry | 19,359 | 14,964 | 52,763 | 40,712 |
| Armed Services | 73,996 | 73,473 | 275 | 233 |
| Banking, Housing and Urban Affairs | 12,558 | 1,599 | 118 | 16 |
| Commerce, Science and Transportation | 10,590 | 7,255 | 885 | 814 |
| Energy and Natural Resources | 2,879 | 2,539 | 48 | 63 |

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT: BUDGET YEAR TOTAL 2003—Continued

[Millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations acts | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Environment and Public Works | 30,830 | 2,372 | | |
| Finance | 759,763 | 763,470 | 286,512 | 286,509 |
| Foreign Relations | 13,595 | 11,366 | 183 | 183 |
| Government Affairs | 66,931 | 65,426 | 16,564 | 16,564 |
| Judiciary | 6,509 | 6,441 | 534 | 527 |
| Health, Education, Labor and Pensions | 5,328 | 4,805 | 2,814 | 2,801 |
| Rules and Administration | 82 | 85 | 104 | 103 |
| Intelligence | | | 223 | 223 |
| Veterans' Affairs | 1,171 | 1,109 | 30,321 | 29,969 |
| Indian Affairs | 456 | 444 | | |
| Small Business | 864 | 769 | | |
| Unassigned to Committee | (371,644) | (358,647) | | |
| Total | 1,865,165 | 1,819,148 | 391,344 | 378,717 |

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT: BUDGET YEAR TOTAL 2004

[Millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations acts | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Appropriations: | | | | |
| General purpose discretionary | 782,999 | 822,563 | | |
| Memo: | | | | |
| On-budget | 778,742 | 818,356 | | |
| Off-budget | 4,257 | 4,207 | | |
| Highways | | 31,555 | | |
| Mass transit | 1,461 | 6,634 | | |
| Mandatory | 426,949 | 410,619 | | |
| Total | 1,211,409 | 1,271,371 | | |
| Agriculture, Nutrition, and Forestry | 20,801 | 16,826 | 55,536 | 39,472 |
| Armed Services | 77,560 | 77,326 | 357 | 376 |
| Banking, Housing and Urban Affairs | 13,946 | 2,251 | 120 | 12 |
| Commerce, Science and Transportation | 10,908 | 6,518 | 827 | 843 |
| Energy and Natural Resources | 2,669 | 2,390 | 64 | 70 |
| Environment and Public Works | 35,654 | 2,312 | | |
| Finance | 757,606 | 760,928 | 315,856 | 315,780 |
| Foreign Relations | 9,787 | 11,689 | 179 | 179 |
| Government Affairs | 68,533 | 67,000 | 17,362 | 17,362 |
| Judiciary | 7,883 | 7,230 | 511 | 523 |
| Health, Education, Labor and Pensions | 5,232 | 4,439 | 2,888 | 2,872 |
| Rules and Administration | 82 | 246 | 109 | 109 |
| Intelligence | | | 226 | 226 |
| Veterans' Affairs | 1,311 | 1,260 | 32,914 | 32,795 |
| Indian Affairs | 475 | 472 | | |
| Small Business | 3 | (23) | | |
| Unassigned to Committee | (371,280) | (355,315) | | |
| Total | 1,852,579 | 1,876,920 | 426,949 | 410,619 |

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, 5–YEAR TOTAL: 2004–2008

[Millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations acts | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Agriculture | 109,330 | 91,951 | 288,857 | 206,256 |
| Armed Services | 417,330 | 416,461 | 2,992 | 3,047 |
| Banking, Housing and Urban Affairs | 71,267 | 7,231 | 626 | (104) |
| Commerce, Science, and Transportation | 60,492 | 38,575 | 4,538 | 4,541 |
| Energy and Natural Resources | 11,991 | 10,905 | 320 | 333 |
| Environment and Public Works | 190,317 | 10,561 | | |
| Finance | 4,501,491 | 4,510,575 | 1,824,189 | 1,823,275 |
| Foreign Relations | 59,034 | 55,412 | 876 | 876 |
| Governmental Affairs | 372,971 | 365,695 | 93,701 | 93,701 |
| Judiciary | 25,585 | 25,756 | 2,629 | 2,640 |
| Health, Education, Labor, and Pensions | 32,738 | 29,056 | 15,226 | 15,126 |
| Rules and Administration | 408 | 574 | 588 | 588 |
| Intelligence | | | 1,230 | 1,230 |
| Veterans' Affairs | 6,561 | 6,382 | 176,815 | 176,196 |
| Indian Affairs | 2,587 | 2,569 | | |
| Small Business | 6 | (59) | | |

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, 10–YEAR TOTAL: 2004–2013

[Millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations acts | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Agriculture | 209,130 | 178,892 | 600,618 | 446,118 |
| Armed Services | 910,879 | 909,159 | 7,129 | 7,273 |
| Banking, Housing and Urban Affairs | 141,433 | 1,859 | 1,318 | (176) |
| Commerce, Science, and Transportation | 113,446 | 69,687 | 10,252 | 10,232 |
| Energy and Natural Resources | 22,263 | 20,458 | 640 | 653 |
| Environment and Public Works | 393,698 | 19,403 | | |
| Finance | 10,593,061 | 10,608,189 | 4,487,111 | 4,485,223 |

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, 10–YEAR TOTAL: 2004–2013—Continued

[Millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations acts | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Foreign Relations | 127,160 | 116,399 | 1,733 | 1,733 |
| Governmental Affairs | 833,756 | 819,817 | 206,453 | 206,453 |
| Judiciary | 42,068 | 41,692 | 5,459 | 5,455 |
| Health, Education, Labor, and Pensions | 71,126 | 64,104 | 32,601 | 32,468 |
| Rules and Administration | 803 | 1,025 | 1,309 | 1,309 |
| Intelligence | .................... | .................... | 2,648 | 2,648 |
| Veterans' Affairs | 12,781 | 12,501 | 373,770 | 372,651 |
| Indian Affairs | 5,805 | 5,765 | .................... | .................... |
| Small Business | 6 | (76) | .................... | .................... |

ECONOMIC ASSUMPTIONS

Section 301(g)(2) of the Congressional Budget Act requires that the joint explanatory statement accompanying a conference report on a budget resolution set forth the common economic assumptions upon which the joint statement and conference report are based. The Conference Agreement is built upon the economic forecasts developed by the Congressional Budget Office [CBO] and presented in CBO's ''The Budget and Economic Outlook: Fiscal Years 2004–2013'' (January 2003).

House Resolution.—CBO's economic assumptions were used.

Senate Amendment.—CBO's economic assumptions were used.

Conference Agreement.—CBO's economic assumptions were used.

ECONOMIC ASSUMPTIONS OF BUDGET RESOLUTION

[Calendar years 2003–2013]

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Real GDP (percentage change year over year): | 2.5 | 3.6 | 3.4 | 3.3 | 3.2 | 3.1 | 3.0 | 2.9 | 2.6 | 2.5 | 2.7 |
| GDP Price Index (percentage change year over year): | 1.6 | 1.7 | 2.0 | 2.1 | 2.1 | 2.2 | 2.2 | 2.2 | 2.2 | 2.2 | 2.2 |
| Consumer Price Index (percentage change year over year): | 2.3 | 2.2 | 2.4 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 |
| Unemployment Rate (percent): | 5.9 | 5.7 | 5.4 | 5.3 | 5.2 | 5.2 | 5.2 | 5.2 | 5.2 | 5.2 | 5.2 |
| 3-month Treasury Bill Rate (percent): | 1.4 | 3.5 | 4.8 | 4.9 | 4.9 | 4.9 | 4.9 | 4.9 | 4.9 | 4.9 | 4.9 |
| 10-year Treasury Note Rate (percent): | 4.4 | 5.2 | 5.7 | 5.8 | 5.8 | 5.8 | 5.8 | 5.8 | 5.8 | 5.8 | 5.8 |

Source: CBO.

PUBLIC DEBT

The adoption of this Conference Agreement by the two Houses would result in the engrossment of a House Joint Resolution adjusting the level of the statutory limit on the public debt pursuant to House Rule XXVII. In consonance with clause 3 of that rule, the conferees contemplate a joint resolution of the following form:

''*Resolved, by the Senate and the House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof $7,384,000,000,000.*''

If the joint resolution is enacted to raise the debt limit to the level contemplated by this conference agreement, the limit will be increased from $6.4 trillion to $7.384 trillion.

Legislative jurisdiction over the public debt remains with the Committee on Ways and Means. The debt rule does not preclude that committee from originating public debt limit bills whenever necessary.

OTHER PROVISIONS

The Senate amendment included 4 separate sections dealing with various reserve funds and or adjustments that have not been included in this Conference Agreement. These provisions are discussed below.

The Agreement does not include any language with respect to section 211 of the Senate amendment which provided an adjustment for Part B grant program under the Individuals with Disabilities Education Act. Additional funding for this program is assumed within the functional levels and discretionary spending limits set out in the Conference Agreement.

The Agreement also does not include any language with respect to section 218 of the Senate amendment which provided a reserve for the State grant program which is funded through the Land and Water conservation fund. The section 218 language was proposed only in conjunction with a reconciliation instruction to the Senate Committee on Energy and Natural Resources designed to facilitate exploration of the Arctic National Wildlife Refuge. This Conference Agreement does not include any such instruction, thus the reserve fund has become irrelevant.

The Agreement does not include any language with respect to section 319 of the Senate amendment which purported to provide a reserve fund to strengthen Social Security. As discussed above, the language was superfluous and thus was not adopted by the conferees.

The Agreement does not include any language with respect to section 329 of the Senate amendment which purported to create a $100 billion reserve for the war in Iraq and subsequent reconstruction. Again the language was superfluous and has in fact been superceded by the President's request and Congress' action on a FY 2003 supplemental appropriations bill for just this purpose.

SENSES OF CONGRESS

*House Resolution*

The House Resolution did not include any Senses of the House or of Congress.

*Senate Amendment*

The Senate amendment contains twenty-seven ''Sense of the Senate'' provisions that were adopted either during the markup or during consideration on the Senate floor. Two other provisions calling for reserve funds were also adopted and included in Title III of the Senate amendment. They more appropriately should have appeared in Title II with other reserve funds and adjustments. These are non-binding statements.

Section 301. Sense of the Senate on Federal employee pay.

Section 302. Sense of the Senate on Tribal colleges and universities.

Section 303. Sense of the Senate regarding the 504 small business credit program.

Section 304. Sense of the Senate regarding Pell Grants.

Section 305. Sense of the Senate regarding the National Guard.

Section 306. Sense of the Senate regarding weapons of mass destruction civil support teams.

Section 307. Sense of the Senate on emergency and disaster assistance for livestock and agriculture producers.

Section 308. Social Security restructuring.

Section 309. Sense of the Senate concerning State fiscal relief.

Section 310. Federal Agency Review Commission.

Section 311. Sense of the Senate regarding highway spending.

Section 312. Sense of the Senate concerning an expansion in health care coverage.

Section 313. Sense of the Senate on the State Criminal Alien Assistance Program.

Section 314. Sense of the Senate concerning programs of the Corps of Engineers.

Section 315. Radio interoperability for first responders.

Section 316. Sense of the Senate on corporate tax haven loopholes.

Section 317. Sense of the Senate on phased-in concurrent receipt of retired pay and veterans' disability compensation for veterans with service-connected disabilities rated at 60 percent or higher.

Section 318. Sense of the Senate concerning Native American Health.

Section 319. Reserve fund to strengthen social security.

Section 320. Sense of the Senate on providing tax and other incentives to revitalize rural America.

Section 321. Sense of the Senate concerning higher education affordability.

Section 322. Sense of the Senate concerning children's graduate medical education.

Section 323. Sense of the Senate on funding for criminal justice.

Section 324. Sense of the Senate concerning funding for drug treatment programs.

Section 325. Funding for after-school programs.

Section 326. Sense of the Senate on the $1,000 child credit.

Section 327. Sense of the Senate concerning funding for domestic nutrition assistance programs.

Section 328. Sense of the Senate concerning free trade agreement with the United Kingdom.

Section 329. Reserve fund for possible military action and reconstruction in Iraq.

*Conference Agreement*

The Conference Agreement contains the following Senses of the Senate:

Section 601. Sense of the Senate on Federal employee pay.

Section 602. Sense of the Senate regarding Pell Grants.

Section 603. Sense of the Senate on emergency and disaster assistance for livestock and agriculture producers.

Section 604. Social Security restructuring.

Section 605. Sense of the Senate concerning State fiscal relief.

Section 606. Federal Agency Review Commission.

Section 607. Sense of the Senate regarding highway spending.

Section 608. Sense of the Senate on Reports and Liabilities and Future Costs.

Section 609. Sense of the Senate concerning an expansion in health care coverage.

Section 610. Sense of the Senate concerning programs of the Corps of Engineers.

Section 611. Sense of the Senate concerning Native American Health.

Section 612. Sense of the Senate on providing tax and other incentives to revitalize rural America.

Section 613. Sense of the Senate concerning children's graduate medical education.

Section 614. Sense of the Senate on funding for criminal justice.

Section 615. Sense of the Senate concerning funding for drug treatment programs.

Section 616. Sense of the Senate concerning free trade agreement with the United Kingdom.

JIM NUSSLE,
CHRISTOPHER SHAYS,
*Managers on the Part of the House.*

DON NICKLES,
PETE V. DOMINICI,
CHUCK GRASSLEY,
JUDD GREGG,
*Managers on the Part of the Senate.*

United States
*of* America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE *108th* CONGRESS, FIRST SESSION

*Vol. 149* WASHINGTON, THURSDAY, APRIL 10, 2003 *No. 58*

# *Senate*

The Senate met at 10 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

PRAYER

The guest Chaplain, Rev. Dr. Douglas John Waite, Deputy Chaplain of the Coast Guard, offered the following prayer:

Good morning, loving God of us all. We invite You here with us today as we deliberate about issues affecting Your people everywhere. We especially ask You to be with the former chaplain of the Senate, Dr. Lloyd Ogilvie, and his family in their grief and loss of his beloved wife Mary Jane.

We also request You to be with our forces who are in harm's way today. Grant wisdom to the leaders you appointed over them. Take those who have paid the ultimate price for freedom and safety into Your kingdom and comfort their families. Stand beside our terrorized prisoners of war. Bring them home safe and soon. Heal quickly those who have been wounded. Shield innocent civilians everywhere and cause a speedy end to war. Protect us all from terrorism at home and abroad.

Finally, Lord, we beseech You to enable the elected representatives of our democracy to seek Your guidance and direction so they may do Your will. We ask these things in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS.)

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, April 10, 2003.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LISA MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Ms. MURKOWSKI thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. BENNETT. Madam President, this morning the Senate will be in a period of morning business until 11 a.m. Following morning business, the Senate may address any of the following items: The FISA bill, if unanimous consent can be reached; the PROTECT Act conference report; the digital technology bill; the nomination of Priscilla Owen to be a U.S. circuit judge; the BioShield bill; and any other conference reports that may become available. Therefore, Members should expect rollcall votes during today's session.

The ACTING PRESIDENT pro tempore. The Democratic whip.

Mr. REID. Madam President, if I could, through you, ask the acting majority leader: All we know on this side is what we read in the newspapers and listen to on the news. Are we going to be able to work on the budget before we leave here, either today or tomorrow? Members are concerned some will leave. This is the most important vote we have, it and the supplemental. We have a pretty good idea what is happening in the supplemental but less of an idea of what is happening on the budget. Does the acting majority leader have any information for this side of the aisle?

Mr. BENNETT. Madam President, I am not in a position to give any definitive answer to the Senator from Nevada. It is my understanding, however, that intense negotiations are going on with the chairman of the Budget Committee and other Senators who have an interest about the conference report. It is my understanding that an agreement has been reached and that a conference report will, in fact, be available to be voted on, if not late tonight, sometime tomorrow. But in the absence of any absolute word about that, I will simply put that in the category of rumors. They may be true rumors, but rumors nonetheless, that I can pass on as my best understanding.

I will, as a courtesy to the Senator from Nevada, and to the Senate, ask the majority leader to come forward with that information as quickly as it has been firmed up. But it is my expectation that there will be resolution of the budget situation before we go out for recess.

Understand, again, that is my personal expectation. That is not an official statement on behalf of the majority leader.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with the first 30 minutes to be equally divided between the Senator from Texas and the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Democratic leader or their designees, and the second 30 minutes to be equally divided between the two leaders or their designees.

The Senator from Texas.

## HONORING OUR ARMED FORCES

Mrs. HUTCHISON. Madam President, I want to open today by noting what we saw live from Iraq yesterday starting in the midmorning. It was truly uplifting to see what we hoped would be the end: The fall of Saddam Hussein, the cheering in the streets by the Iraqi people, the flowers for the American and British soldiers being thrown at the tanks by the Iraqi people.

We are admonished by the President and by the Pentagon that this is not over. There are still areas—in fact, there was a firefight last night that was unexpected. There was one yesterday at the University of Baghdad. So it is not over.

But we know the end is very near, and we know the people of Iraq now understand that they are going to have the taste of freedom.

You could see it in their faces. You could see it in the tears coming down their cheeks. You could see it in the children reacting against the statue of the fallen Saddam Hussein.

I think we are at the beginning of the end or at the end of the beginning. We are seeing the light at the end of the tunnel, which is freedom for the Iraqi people and doing away with the many weapons that have been used in Iraq against its own people and that we feared would be used against ours.

I open by saying thank you to the American troops, the young men and women on the ground, who have fought so valiantly to make this happen. I could not be more proud today, after seeing what is happening in Baghdad and the reaction of the people and the message left by the U.S. troops on one of Saddam Hussein's palaces: ''USA was here.''

I hope in the days to come we will see more Iraqi people beginning to see what it is to be able to form a government and take control of their own country; to start creating jobs again and an economy that will allow them to have a democracy, free enterprise, and know what so many of us have grown up with and appreciated.

I thank the troops this morning. I want to turn over the management of our time to the Senator from Minnesota for the rest of this morning. He will also work with the Senator from Arkansas on the Democratic side to fill this time talking about the heroic and touching deeds that our troops have been doing in the field.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. COLEMAN. Madam President, what a glorious day yesterday was. I am privileged to follow my distinguished colleague from Texas who, as she reflects upon the joy that we all felt, expressed a real sense of pride in the incredible work done by our fighting men and women, knowing that many of those who have lost their lives and those who have been prisoners of war came out of Texas bases.

For all of us there is always this mixed sense. We are filled with joy, pride and joy for the Iraqi people to be able to taste liberation and freedom in Iraq. But part of my tradition in the Jewish faith is that at the time of a wedding ceremony—a glorious day—we wrap a glass in a cloth. Then, at the end of the service, at this moment of the greatest of joy such as the great joy we experienced yesterday, the groom steps on the glass and breaks it.

Part of the sense of tradition is, in this time of joy and celebration, let us not forget that life has mixed blessings, and there are tragedies that have occurred and will occur. So as we celebrate the incredible joy of the liberation of Baghdad, let us not ever—and we will not certainly in these hallowed Chambers, certainly not in this country—forget the sacrifices that have been made by those who have given their last ounce of courage and the sacrifice of their lives for the freedom we witnessed yesterday.

Let us also understand that much work remains to be done. There will be more death. We will suffer more casualties. The liberation of Baghdad is, as my distinguished colleague from Texas said, perhaps the beginning of the end, but it is not the end.

While we eagerly anticipate the day when all of Iraq will be freed from Saddam's iron fist—and Tikrit, his enclave, is still not liberated, so there will be fighting ahead—it is important for us, in what we have done over the last few weeks, not to forget the sacrifice and bravery of the coalition forces still fighting to free northern Iraq.

I note that many are special operations soldiers, such as the skilled and fearless unnamed Minnesota man who was profiled so powerfully in an edition of the Star Tribune. And being a Senator from Minnesota, obviously, I have great pride in this unnamed Minnesotan. It is a story of a Minnesota combat air controller who had already spent more than 30 hours on the ridge line, directing close bomb attacks, with little sleep.

In the briefings we get in the morning, just the other day we had one of those soldiers come in, one of those operatives who talked about the 150 pounds of gear that they have, who talked about being on that line and directing in, with precision guidance, the airstrikes, to focus on the target, to minimize any harm to civilians who are right there.

This story chronicled the efforts, the skill, and the courage of one man—one unnamed man—a Minnesotan, but it drove home the devastating precision and prowess of our forces, a dramatic example of the remaining front line, of how the coalition has swept across Iraq in record time through the fearless teamwork and efforts of men such as this.

I do not know whether, in the chronicles of warfare, any army has moved so quickly and moved so decisively, moved so precisely, as have our troops in what they have accomplished in a few weeks in Iraq.

I cannot share the name and the family of this brave Minnesota soldier at this time because the embedded reporter was not allowed to identify him, other than to mention that the 34-year-old air controller hails from near Park Rapids, MN, and loves fishing and snowmobiling back home, as many of us Minnesotans love fishing and snowmobiling. But the description of what this dedicated Minnesotan is doing so far from home serves as an inspiring, yet sobering, reminder of the dangers and challenges that still confront our forces.

A few passages from the story underscore the perilous conditions our Special Forces still operate under as they coordinate and choreograph the pinpoint air attacks that will ultimately lead to complete surrender, that will ultimately lead to the liberation of all of Iraq, that will ultimately lead to more stability in the Middle East, that will ultimately lead to a safer world for us here at home in America.

Let me talk a little about what is in that story:

> Part cowboy, part choreographer, the Minnesotan stood in a bunker rife with scorpions early Tuesday morning and searched the sky. A U.S. fighter jet roared overhead for the third time in less than a half-hour. His casual tone masked his dangerous task of directing the aircraft to bomb Iraqi Republican Guard positions just a few thousand meters away.

The reporter continues:

> As a combat air controller, he owned a 3-to-4 mile stretch of horizon that is the leading edge of a northern front only an hour from Baghdad—and moving closer.
>
> If his team's position was not locked in by a pilot before the start of a bombing run, the five American operatives and three Kurdish reconnaissance scouts risked being the victims of friendly fire.
>
> Their mission this night was to pound Hill 323, an 800-foot mound amid rolling hills where reinforced concrete bunkers protected Republican Guard troops and supplies.

The story goes on to vividly detail the rest of the operation, the extraordinary coordination between pilots providing air support and the Special Forces on the ground.

The unnamed Minnesotan is using the finest battlefield technology ever developed—infrared lasers that allow pilots to lock on to the position of friendly troops and target the location of enemy forces to a devastating and precise effect.

But that mission and unnamed Minnesotan also exhibited another remarkable trait that has been displayed to the entire world throughout this campaign; namely, patience and concern—the patience to make sure he got it right, that no civilians were unintentionally injured, and that his fellow soldiers were safe.

The controller lined up two warplanes to drop their payloads, but called them off because he was not certain they were locked in on the target. The third jet, an F–15 Strike Eagle, took three checks of the coordinates before the air controller was confident the pilot understood his directions. The cluster bomb then hit its mark.

I submit that all of us should display similar patience and concern to that of that unnamed Minnesota combat air controller as we enter the final phase of Operation Iraqi Freedom—patience to let our coalition troops finish the job they went halfway around the world to do, and concern for the Iraqi people as they prepare for liberation and reconstruction of their country and society.

At the end of that operation, the nameless Minnesota soldier was asked if he wanted something to drink, and he requested a Guinness. I certainly hope to find out exactly who he is, so I can buy him one upon his safe return.

Madam President, I ask unanimous consent to have this newspaper story from the Star Tribune printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Minneapolis Star Tribune, Apr. 9, 2003]

MINNESOTAN WITH SPECIAL FORCES HAS KEY ROLE IN STRIKES ON REPUBLICAN GUARD

(By Paul McEnroe)

KANSI-MASI, IRAQ.—Part cowboy, part choreographer, the Minnesotan stood in a bunker rife with scorpions early Tuesday morning and searched the sky.

A U.S. fighter jet roared overhead for the third time in less than a half-hour. ''Let's rope that bird,'' he said in a casual tone that masked his dangerous task of directing the aircraft to bomb Iraqi Republican Guard positions just a few thousand meters away.

As a combat air controller, he owned a 3- to 4-mile stretch of horizon that is the leading edge of a northern front only an hour from Baghdad—and moving closer. Any pilot flying through his quadrants—a fighter jock in an F–15 Strike Eagle or a plodder in a B–52—had to check in with him and the U.S. Special Forces team he's working with in the hills north of the Iraqi-controlled city of Khanaqin.

If his team's position was not locked in by a pilot before the start of a bombing run, the five American operatives and three Kurdish Peshmerga reconnaissance scouts risked being the victims of friendly fire. All it took was a garbled radio transmission or a misunderstanding of map coordinates.

And after the friendly fire airstrike on a convoy near Mosul on Sunday, when at least 18 Kurdish fighters were killed and three U.S. special operations soldiers were injured, the Minnesotan was not about to let his team be the latest victims.

''Sparkle him now,'' he said to the burly man at his side. The Special Forces' team sergeant commanding the night mission pointed his M–4 rifle into the sky and beamed up an infrared laser line. The pilot would use that to mark the unit's forward position in the jet's navigational computer and thus eliminate the chance of a friendly fire episode.

The pilot locked on, but in a radio check the controller was concerned that the pilot did not have the accurate coordinates of the Iraqi target. What seemed minor could easily become a disaster.

The controller already had spent more than 30 hours up on the ridge line, directing close bomb attacks with little sleep. He wanted to double-check himself again. So he burrowed into a dark nylon bag at the bottom of the bunker, where he could turn on a light without alerting any Iraqis to the team's position.

Like a boy reading beneath the bedcovers at night, he scrutinized his Global Positioning System card, checking off degrees and meters while circling planes waited on his word.

AIR ATTACKS

Two weeks ago, Special Forces unit members helped Kurdish fighters rout hundreds of Islamic militants from the area around Halabja. Now they're focusing on the Iraqi troops, and they allowed a Star Tribune reporter and photographer, and a two-man team from Knight-Ridder Newspapers, to accompany them on a combat air-support mission. The only conditions were that their identities and certain strategic information not be published for the sake of their security.

Since the war began, the northern front has been characterized by air attacks in the Kirkuk, Mosul and Khanaqin areas—and little else. U.S. soldiers, frustrated at the lack of action in the region, speak of ''being Turked,'' a reference to Turkey's refusal to allow U.S. ground troops to cross its border into Iraqi Kurdistan to attack Iraqi forces from the north.

That has led to increased pressure on Special Forces charged with combat air-support missions—such as this one, based in a western state and specializing in mountain warfare.

THEY ALL SEE THE END

The Special Forces team moved out of their small base near Khanaqin outfitted with electronic gear, Kevlar vests, night-vision goggles, 9-millimeter pistols strapped to their thighs and M–4 assault rifles slung over their shoulders. They were in for a 12-hour night mission along a newly taken line that moves south by the day.

''This is the farthest south the Pesh have been since 1991,'' the team sergeant said.

They all can see the end, and the push is on. The sergeant spoke of the 34-year-old Minnesota air controller this way: ''He's our workhorse. We can't get him off the mountain.''

The air controller joined the Air Force at 19 and has made it a career. Mention Fifth Crow Wing Lake near Park Rapids, Minn., and he brightens about the years of good fishing he's had in that area. He's also a snowmobile enthusiast.

He works beside people who are considered among the U.S. military's elite. In this Special Forces unit's last class, only 17 of 90 men survived the cut, the sergeant said.

Besides the team sergeant, the squad has a weapons sergeant who patrols the perimeter, an assistant team leader responsible for intelligence gathering and reconnaissance, a communications man and the air controller.

They are models of reserve around strangers, but hints of their wild side seep out while they make small talk and prepare to do their job.

Some speak of parachute jumps at nearly 30,000 feet and not opening their chutes until they're 3,500 feet from the ground. Others trade mountain climbing tales.

There's laughter over who got arrested—and who should've been—at a Texas bar called the Broken Spoke. They argue over what's worse to find in a sleeping bag—snakes or spiders. When a man talks of his children's birthdays or anniversaries missed while off on a mission, the rest turn quiet.

Their mission this night was to pound Hill 323, an 800-foot mound amid rolling hills where reinforced concrete bunkers protect Republican Guard troops and supplies.

''We see headlights,'' a soldier said. Then they counted up to 48 Iraqi vehicles on the move—lights on—a suspected armor movement that got everyone juiced because it meant that strikes could fill the night.

''B–52s in 15 minutes,'' the air controller said. He wasn't responsible for directing strikes against these targets, because the column was 6 kilometers away and a closer Special Forces unit was taking over.

''Hopefully they waste that column so we get some stuff over here and blow some ... up,'' the radio man said.

The sergeant ordered the weapons man to work the perimeter, fearing that Iraqis might be probing the hills to see whether their old bunkers were occupied. He studied the ridge line where the column's headlights briefly popped up. ''They're being sent to be cannon fodder, '' he said.

Simultaneously, a car started a slow, meandering drive toward the two trucks used by the Special Forces team. It moved slowly enough for the sergeant to order the men into defensive positions, and an anti-tank weapon was readied. After 10 minutes, a Peshmerga was sent down for a look. It turned out that another Peshmerga had strayed into the area.

''If we'd lit him up, they [the Iaqis] could have fixed their positions to fire on us,'' the sergeant said.

Soon, orange bursts lit up the sky, as a B–52 struck the column. Then came a jolting rumble of sound that shook the ground. Secondary explosions around a command bunker were seen.

Around 1 a.m. Tuesday, it was time to finally call in the strikes on Hill 323. First, a reconnaissance plane scoured the area. The news was good.

''He has hot spots in the buildings,'' the controller said, referring to the detection of heat and a sign that troops were hiding in one of the bunkers.

A jet was called in, but the pilot had to divert after the controller spent 10 minutes lining him up for an attack run. The coordination has to be both precise and quick, and this one wasn't.

''By the time they get here, they only have 10 minutes of fuel left,'' he said, expressing mild frustration that this pilot wasn't able to line up his target before the window closed. ''Some planes are loaded with extra weapons instead of more fuel—it's a choice the air commanders make.''

The visibility was so bad that another pilot—whose craft was not equipped with an optic scanning pod—couldn't see the controller's laser. He also departed with his payload intact.

The third jet, an F–15 Strike Eagle, was on its way but it took three checks of the coordinates before the air controller was confident the pilot understood his directions.

''I don't like all this sparkle,'' he said, referring to having to repeatedly signal the pilots.

''Neither do I. It causes too much confusion,'' the sergeant said. Then he raised his M–4's laser beam to the sky, and the pilot locked on.

Next, the sergeant painted the bunker 2,700 meters away with his laser. The pilot now had the distance marked between his air controller and his target.

''I have you in sight,'' the air controller said. ''Roger, you are clear and hot.''

That was the final go-ahead for the airstrike.

The cluster bomb—not the usual weapon used on bunkers—set off a brilliant white flash and exploded in the air over the target, spewing mini-bombs in a wide apron on top of the hill. Two more strikes followed.

''Thanks for the good work, and have a good night,'' the controller said to the departing pilot.

More strikes came in from another air support team down the line. About 2 a.m., an errant bomb from a B–52 landed a couple of miles to the north of this unit. Once again, everyone was reminded why the controller burrowed into his nylon bag and checked the grid coordinates as if his life depended on it.

Somebody popped open a can of soda, and the muffled sound of the hiss didn't escape the controller's ear. He was starting to relax.

''That's a Guinness for me, right?''

He finally left the bunker at 7 a.m., looking ragged.

SUPPLEMENTAL APPROPRIATIONS

Mr. COLEMAN. Madam President, on a final note, as the conferees to the emergency supplemental appropriations bill do their work, I hope they will include the unemployment benefits to laid-off airline workers that Senator MURRAY, I, and others worked so hard with Chairman STEVENS to include in the Senate bill.

Some of those laid-off workers from Northwest Airlines in Minnesota are now on military duty in the Persian Gulf, called up as part of Operation Iraqi Freedom. One of them, a mechanic named Todd Stock, keeps our C–130 military planes airworthy to take crucial supplies to ground troops in Iraq.

While on duty in the Middle East, Todd learned he is one of the 4,900 Northwest workers who will lose their jobs because of the downturn in the airline industry. When he is serving his country so nobly, Todd Stock should not have to worry about whether he can take care of his family when he gets back home. His wife Sheila has told him just to get home safely and that they will get through it somehow.

Our thoughts and prayers are with Todd Stock. Our thoughts and prayers are with that unnamed Minnesotan. Our thoughts and prayers are with those men and women on the front line. Our thoughts and prayers are with the families of those who have lost loved ones in a great sacrifice, a worthy sacrifice, but the pain being so deep. They need to know that our love surrounds them at this moment.

So I hope the conferees will keep in mind Todd Stock and the other mobilized mechanics serving our country when they make their final recommendations.

I hope Americans will have the patience to understand that though yesterday was a great day, more remains to be done and our support, our commitment, our love, and our prayers will never waiver from being with those who are on the front line doing their duty, doing the job we need them to do, doing it so bravely and so proudly.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mrs. LINCOLN. Madam President, my good friend, the senior Senator from Texas, Mrs. HUTCHISON, has been so steadfast in coming to the floor each day to salute our troops. I thank her for her leadership and for her diligence. I think she has done a tremendous job. I am honored and pleased to have been working with her. She has just done a fabulous job and I think has really elevated the recognition of the service of our men and women in combat. She has done an excellent job. I thank her very much.

As Senator HUTCHISON has said on numerous occasions, and as she began today, we are so very proud of our troops, the men and women who are serving our great country, with their brave service and their tremendous courage, and also their humane treatment of Iraqi civilians and Iraqi prisoners of war.

The United States has complied with the Geneva Convention and international laws concerning the treatment of prisoners, and we call on the followers of Saddam Hussein to do the same.

The incredible vision we saw yesterday, as Senator HUTCHISON mentioned. We saw on the television the cheers of the Iraqi people over the freedom they had begun to feel in their blood and their bones, the idea that they no longer would have to fear expressing themselves, their ideas, their goals, their dreams for their families and for their country. What a wonderful feeling for all of us. As Senator COLEMAN mentioned, we don't want to think that everything has been accomplished. We know there is still much to be done. But again, what a vision to keep in our eyes and in our hearts of a people who have reached something we have long had in our grasp in this wonderful country.

Earlier this week I learned just how well the United States is treating our Iraqi POWs, how well we are working with our service men and women and our armed services to make sure we are doing right by the Geneva Convention.

In earlier remarks on the Senate floor some of my colleagues may recall I reported that a member of my staff, my congressional staff, Marine Reservist LCpl Jason Smedley had been injured in battle. Jason returned to the United States this week on a brief medical leave, and he stopped by my office on Monday. My entire staff sat in rapt attention for some time as Jason shared his experiences in the war on Iraq. Jason said while he was being treated for his injuries in a Kuwaiti hospital, Iraqi soldiers lay across the room from him, receiving the identical quality of medical care. Think of that—American soldiers recovering from battle wounds alongside Iraqi prisoners of war.

I remember the words from Jason. He said: We have definitely kept with the Geneva Convention.

Contrast that with what we have heard and seen of the Iraqi regime's criminal treatment of American POWs, including Jessica Lynch, not to mention the ghastly exhibitions of bodies of American soldiers in shallow graves in which our soldiers found their fallen brothers and sisters.

Jason reported to us many Iraqi citizens are, to quote him, ''definitely glad we are here.'' He told of seeing Iraqi mothers bringing children who had been ill for years to U.S. soldiers for medical care. One mother's child had had problems with her eyesight since birth, and that mother was full of hope as she carried her child to a U.S. soldier. Imagine that—Iraqi children receiving better medical care from our soldiers in the field than they got for years under a brutal dictator who built opulent palaces for himself.

We have seen news reports of the guerrilla tactics employed by Iraqi troops posing as civilians and then ambushing our soldiers. Jason said soldiers of the Iraqi regime stood out even when they were wearing civilian clothing because they appeared to be strong and healthy, and it was such a stark contrast to the malnourished, despondent Iraqi civilians Jason had encountered.

Jason said he had many opportunities to talk to Iraqi civilians, and he made it his mission to seek their opinions of Saddam Hussein. Without exception, he said, they all wanted Saddam Hussein to be removed from power.

An Arab-speaking man who had accompanied Jason's unit as an interpreter had a very personal reason for volunteering to serve with the U.S. forces. He himself had been abducted and tortured by the Iraqi regime after they had invaded Kuwait. Jason had been assigned to a unit that was to rebuild Iraq. He was not in a combat unit. When he was injured during an enemy attack, he was bedding down after helping evacuate about 500 Iraqi civilians who had been caught in the firefight from an Nasiriyah. This Sunday at National Naval Medical Center in Bethesda, MD, the Commandant of the Marine Corps awarded Jason a Purple Heart.

Since Jason has been back in the United States, he has burned up the phone lines calling to check on family members of fellow marines. He said several men had missed the birth of their children, and he recalled one marine listening intently on a ship-to-shore phone as his wife tried to describe their newborn son to him.

That same marine was delighted when mail arrived with a CD–ROM video of his new baby as the ship steamed toward the Middle East. Jason had checked up on the marine's wife and many others because he said he and his fellow marines were so concerned about how their families were weathering the stress of the war.

As I e-mailed Jason on his trip over on the ship, I was amazed at the response in the e-mail I got back. It wasn't about him. It was about me.

He said: Senator, I want to lift up a prayer for you. He said: I am heading out to do what I am supposed to do. I want to lift up a prayer for you and all

Americans because we are getting ready to enter into something so important, sharing something with the rest of the world, particularly a people who have not and do not understand what freedom feels like.

How incredible of a young man that age, leaving to defend his country and, more importantly, what his country means to him.

He has asked me to encourage all Americans who know families of our Armed Forces to check in on those family members regularly because that show of support is the best way we can help our troops.

Senator HUTCHISON and I have come on different occasions to talk about this. We have lifted up one another's personal stories we have had from the war. It is important that the American families of our service men and women and that our service men and women who are there in harm's way understand as we lift up these tributes to our troops, we are not just talking about those we know the best and most intimately, those who are a part of our family, we as a body are lifting up our pride, our prayers, the honor we feel for each and every service man and woman who is there putting themselves in harm's way on our behalf.

It is so critical to take to heart Jason's words that those of us out there living in different communities know one of the best things we can do for our troops is to reach out to their families—families who are frightened, nervous, who may not be hearing as much as they want from their loved ones serving this great land.

I hope we all, both as Senators, as Congress in general, and more importantly, as Americans reach out to those very important families.

While Jason's mother and I shared a sigh of relief that Jason is temporarily back in the United States out of harm's way, this dedicated young man says he hopes to return to his unit until the job is done, the job of sharing those incredible treasures we, as the American people, hold so dear, to help share with the Iraqi people what freedom means, to be able to speak out your ideas, your thoughts, your prayers, and ideals, how you believe your country can be stronger and should be run—things that oftentimes, as we move about our busy lives, whether it is to the grocery store or to drop children off at school, we take for granted.

I am proud of Jason Smedley, whose courage and character exemplifies our U.S. soldiers; a young man who spent nearly 1 month on a ship en route to Kuwait; a young man who had the chance to take a shower just once a week in Kuwait and not once after entering Iraq; a young man who helped dig out his unit's camp in a former trash dump where even the roaches were dead; a young man who endured hot days and cold nights in stinging sandstorms; a young man who has been in five hospitals in the last 2 weeks, but always reaching out to the patient next to him; a young man wounded in battle who saw his fellow soldiers lose their limbs; a young man whose wish is that he might get to go back and be with his unit to help rebuild Iraq for the oppressed people of that country.

I am so very proud of all of our brave and selfless young men and women serving in harm's way in Iraq and throughout the world, just as Jason Smedley has been—going with the spirit of America to share what each and every one of them holds so near and dear to their hearts: the freedoms and the treasures of being an American.

Madam President, may God bless them and bless our Nation as we continue to bring what democracy and freedom can share with the entire world. I thank you for this opportunity.

Again, I compliment my colleague from Texas, Senator HUTCHISON.

At this point, I will yield the floor to my colleague from Delaware, Senator CARPER, and thank him so much for taking the time to be here with us.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, I express my appreciation to Senator LINCOLN and Senator HUTCHISON for making sure we had this opportunity again today to remember those who are serving and their families who are here supporting them and pulling for them and praying for them.

The video from the other side of the world—the visual images from the other side of the world over the last 24 hours are extraordinary to us all and, for the most part, they are encouraging. While many of us are troubled by the scenes of looting that occurred in parts of Baghdad yesterday, we will remember for many years the scene of the jubilation where people were realizing a time of oppression in their lives was coming to an end when the prospect for greater personal freedoms and liberties was denied. I know not everybody in this country and in this body supported the notion of our engaging in an armed conflict with Iraq at this time. We all, regardless of how we felt as we approached the day of decision, celebrate how well and effectively our men and women have served in that conflict. We regret the loss of life in that conflict.

I want to talk about two young men from my State for whom the last respects will be paid this Saturday as we lay them to rest. Before I do that, I was privileged to be Governor of Delaware for 8 years. One of the things I liked most about being Governor was, as an old Navy officer, they let me be chief of the Delaware Army National Guard. In the last several months, we have had the opportunity to send off unit after unit within the Delaware National Guard, to be mobilized and, in many cases, deployed and, in some cases, closer to home and, in other cases, to be sent to the other side of the world. I want to mention some of the work those men and women are doing. Some of them fly C–130 aircraft, which are part of the air bridge between America and the Middle East. The beginning of the air bridge, in many cases, is a C–5—we fly those out of Dover Air Force Base—which is the largest cargo aircraft in the world. They are being flown today by active-duty personnel and by the Reservists, and they fly very much as one team, one unit, literally as a wonderful, coordinated, combined team.

At the very end of the air bridge is, in many cases, the C–130s. They are flown by members of the Air National Guard out of Delaware, Alaska, Arkansas, Texas, and other States. Those men and women who are flying those, or maintaining those aircraft, or serving as military police, whether in this country or in the Middle East, and those people who are using heavy equipment, those who are providing health care—a number of those people come from my State of Delaware. They are male, female, officers, and enlisted. In many cases, they have left behind a spouse, children, their families, in order to serve us and, in some cases, they are doing so at great economic disadvantage to their families and, in some cases, at considerable danger to themselves.

We are grateful for their service. We are proud of each one of them. I say today to their family members—those who are tending the home fires and making sure the families stay together and the kids are going to school and are getting fed and clothed and all—a real special thank you for your willingness to share with us at a challenging time in our Nation your sons, daughters, husbands, wives, moms, and dads.

At the Dover Air Force Base, we traditionally carry a lot of the materiel and men and women who need to go around the world in support of our military actions. During the Afghanistan war, roughly 30 percent of the equipment that moved into Afghanistan in support of that conflict came through Dover Air Force Base and flew out on C–5s from there. We are continuing to carry a large part of the strategic airlift burden from Dover and places like Travis and other Air Force bases around the country.

There is another unit stationed at the Dover Air Force Base that gets probably even more attention these days than do the C–5 aircraft, and that unit is the mortuary. We hear almost every day of the remains of American soldiers, sailors, airmen, marines, that are being returned to America and to their loved ones. En route to their loved ones, those remains come through the Dover Air Force Base and the mortuary there. I visited there last month and also in the past. While the people who work there get precious little recognition for the work they do, they do some of the toughest work of anybody in this country—military or civilian.

I stand here today and take my hat off to those men and women. Some are active duty, some Reservists, and others have volunteered for the service. But there is no more emotionally demanding and draining work that you or I could do for our service men and women and their families. I really want to express my gratitude—and, I know, that of every Member of this body—for the work going on there at this moment.

Among the bodies that have been returned to their loved ones through that Air Force base in Dover through the mortuary are two young men, one 21 years of age from Seaford, DE, Army Ranger SP Ryan Long. Another is a young marine sergeant from New Castle, DE, who grew up in New Jersey and came to Delaware when he went to high school and married his high school sweetheart. He perished last week at the age of 23 on the other side of the world. His name is Brian McGinnis. As our Presiding Officer knows, one of the toughest tasks we do as Senators is to call families of those who have died and try to convey to them our anguish, grief, and our sympathy, and offer whatever we can to be supportive and encouraging in this tough time. As a father of two young boys myself, 13 and 14, I cannot imagine the difficulty of living with the loss of your child. Life prepares us to know that some day our grandparents will pass away, and eventually our parents, and maybe our siblings, and maybe even a spouse; but there is little in this life to prepare us to know that we are going to lose a child.

In this case, the Long family and the McGinnis family have lost their sons. They will be laid to rest this Saturday in the First State, Delaware.

I wish to mention the service of each of them. Ryan Long comes from a family that has served in our military for generations. He is fourth generation. While at Seaford High School, he was vice commander of the junior Navy ROTC unit. He ended up joining the Army and became a ranger.

He was at a checkpoint barely a week ago in an area northwest of Baghdad. A car driven by a woman went through that checkpoint. Out of that car emerged another woman who appeared to be pregnant. She came out of the car screaming, and three Army personnel approached the car. The car exploded, and the driver, the woman who had fled from the car, and our three Army personnel, including Ryan Long, were killed. The soldiers approached that car believing there was a problem and attempted to extend a helping hand. For that, they lost their lives.

I am sorry to say that the Ryan family has lost their son. To Rudy and Donna Long—I had the privilege of speaking with the dad who is a retired major—we extend our heartfelt sympathy.

Seaford is the home of the first nylon plant ever built. It is the first ever built in the world. Ryan used to play golf at the Seaford Nylon DuPont Country Club. He played on the golf team at school and did a lot of other activities in the community before he enlisted in the Army.

In the northern part of our State, there is a beautiful little town called New Castle. It has the largest high school in our State, the William Penn High School. Brian McGinnis went to William Penn High School, having grown up in New Jersey earlier in his life. At that school, Brian met a gal named Megan. He did not just meet her, he married her after school. He leaves behind a widow, a dad who lives in New Jersey, Bill Mcginnis, and a mom, Mildred Williams, who now lives in Port Charlotte, FL.

Brian was flying a helicopter. The helicopter, as we have seen too often in this war—any aircraft, whether fixed wing or rotary—crashed. He was aboard the helicopter, a Huey, and his life was lost. He will be buried this Saturday in New Castle, DE.

I send to his dad with whom I have spoken, to his mom, and to Megan, his bride, our sympathies. My office, my staff is doing whatever we can to be of help and support to them. We remember them today. We feel their anguish. Our hope is time will heal some of that pain. Again, we stand ready to provide whatever assistance and comfort we can throughout our State of Delaware to help the two families who have lost their loved ones.

I close with a comment on the war itself. Many of us have said the toughest part of the war lies ahead. There is still fighting to take place in other parts of the country that are not under allied control. The tough part of the war does lie ahead. It is not just keeping the peace and restoring order in places such as Baghdad and to stop the looting, but it is helping to build a democratic institution within a country where there are disparate groups—Shiites, Sunnis, and the Kurds in the North.

There is a history of distrust and hatred. We need to help put to bed those generations of mistrust. That is not going to be an easy job. It is not a job we and the Brits should assume. This is a job which others should join in fulfilling, tackling, and also paying. We should welcome their involvement.

Mr. President, I yield back whatever time I have not consumed.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. I thank the Chair.

Mr. President, it is fitting that we reserve time each morning to pay tribute to the troops. I, too, mourn the loss of so many of our young men and women who went over to Iraq and will not be coming home. Our hearts go out to their families and friends and for these brave men and women who put their lives on the line for our freedoms.

To listen to the stories this morning, to hear the accounts of the two young men from Delaware who will not be returning home to their families, to sit in this Chamber and listen to Senators from the various States talk about those who will not be coming home, as a country we mourn for them, but we also have cause to celebrate and be joyous with those who will be coming home.

I stand before you with a great sense of pride for a young man from Alaska who we just learned, quite honestly by way of a photograph that appeared on Monday, was pinned by General Franks with a Bronze Star for battle. It is one of those success stories; it is one of those tributes that is important to mention as we speak about those who have not only given their lives but those who have gone into battle and are coming back to celebrate the victories.

The young man from Alaska about whom I would like to speak this morning is SGT Lucas Goddard. He has been in the military for just 3 years. He is 21 years old. He is part of the Army's 327th 1st Brigade of the 101st Airborne Division. It was on Monday in Najaf that General Franks pinned the Bronze Star on Sergeant Goddard.

Imagine yourself, Mr. President, as a parent, as we both are, your son or your daughter is overseas. They are in a conflict and you have not heard from them in several months, not knowing their situation, not knowing whether they are safe, really not knowing where they are. Your eyes are glued to the coverage of the war to glimpse anything.

The parents of Sergeant Goddard received a phone call on Monday from a reporter who had seen the picture, saw that the young man had been identified as being from Alaska, and contacted Mrs. Goddard. The reporter said: So what do you think? Mrs. Goddard was speechless. She was so happy, she was so joyous, not necessarily that her son had received this incredible recognition, but that her son was alive.

The headline in the hometown newspaper that day was: ''Medal and Media Images Mean Army Son is Alive in Iraq.'' Think about yourself as a parent wanting to know, waiting to know, getting a call from a reporter saying: What do you think? But the good news is that your son is alive and, on top of that, to be given a medal such as the Bronze Star.

I had an opportunity last evening to speak with Sergeant Goddard's mother, Kathy Goddard. She lives in Juneau. It was heartwarming to speak with her about the pride she has for her son and the sense of giving that she has as a parent. She said to me: It's not just Lucas; it is not just Lucas who is out there. There are other young men and women from Sitka, who are in Iraq, who are serving our country, and we are concerned for all of them.

Sitka is a very small community in southeast Alaska. It is an island of about 8,000 people. In that community in the grocery store, I understand from Mrs. Goddard that what they have done is put a list in the grocery store of the individuals who are serving our country right now so that people can get a sense of who is out there serving, the men and women we honor.

I asked Mrs. Goddard: Can you tell us what it was that your son did to receive the Bronze Star? In the picture that we saw, there was no real recognition. It was just an acknowledgment that this young man had received the honor.

She does not know. Her comment to me was: It really does not matter what he was recognized for, but whatever it is, we are exceptionally proud. We cannot wait until he gets home and he can sit around the dinner table and tell us all that he has gone through.

She said he is a very humble young man and does not like to tout his accomplishments. She says he is probably going to be embarrassed over all of the hoopla that is going on right now, but there is good reason for hoopla. It is still very sketchy right now, but in referencing several of the newspaper accounts, we understand that General Franks awarded the Bronze Star for valor to two soldiers who had fought in the battle for Najaf. SGT James Ward led the team that stormed the military compound on the south side of the city, and SGT Lucas Goddard spearheaded the assault on the local airfield, taking direct enemy fire.

In further newspaper accounts, as best we have been able to tell, we understand they had captured a compound of weapons while under fire by AK–47s, grenade launchers, and rocket-propelled grenades. So our brave young man from Sitka did what he was trained to do and was recognized for it. He will be going home to Sitka to celebrate with his family.

I need to share a mother's intuition with the Chair and my colleagues. Mrs. Goddard said she woke up on Monday sensing that she was going to hear from her son that day.

She said: You know, you just sometimes get that intuition; I just felt something.

She had not heard from her son for upward of a month prior to this. That afternoon she received a phone call from a reporter asking: What do you think? We have seen the newspaper account.

Well, that was not a direct contact from her son necessarily, but she said: You follow that mother's instinct. I knew that I was going to hear from him today. And that is what she heard.

So to all of the men and women from Sitka, from all over my State, from all over the country, our hearts go out to you. We are extremely proud of all of you at this moment, like Sergeant Goddard, who so bravely is defending our freedom and our democracy. We must acknowledge all of our men and women for the sacrifices they are making for America's freedom, our freedom, the freedom of this Chamber, and the freedom of millions of people all over the world as we are protected by those who are serving in our Armed Forces.

Sergeant Goddard is an example to all of us. It is this rock solid courage that we think about. This is what our military is all about, unfaltering bravery. So the recognition Sergeant Goddard received is one that we look to, we say thank you, and God bless.

I am going to share one last communication from Sergeant Goddard. This was in an e-mail message he sent to his family some months ago. It is a testament of his good will, and I believe his honorable service to our country. In his message, he stated:

> I will be thinking of you all while over there. It is because of people like you that we fight the tyrants who stand in the way of freedom and peace.

So to Sergeant Goddard and all of those men and women who are serving us for our freedom, we thank you.

I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXTENSION OF MORNING BUSINESS

Ms. MURKOWSKI. I ask unanimous consent that morning business be extended until the hour of 12 p.m., with the time equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MURKOWSKI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. THOMAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. THOMAS. We are in morning business?

The ACTING PRESIDENT pro tempore. That is correct.

## ENERGY

Mr. THOMAS. Madam President, I take a moment to talk about at least one of the pending matters. Certainly our focus is, and should be, on what is happening in Iraq, supporting our troops, so we can support whatever needs to be done now as this war, hopefully, comes to a successful conclusion. In the meantime, of course, while we are aware we are not yet at that point, we have to continue with strong support and praise of our men and women.

In addition, business goes on. Despite our interest in terrorism, despite our concern and support for Iraq, our lives continue. An important issue is energy. We have been through this a number of times before, and the unrest in the Middle East has something to do with it, although it is not the exclusive reason. We need to find ways, as we look forward, to supply ourselves with our electricity needs.

Energy is at times taken for granted. We do not pay attention to it. Lights, automobiles, food—everything has to do with energy. As we all know, we depend on imports for 60 percent of our energy. Availability is threatened, from time to time, but economically we are better off producing here.

We are in the process of working on an energy policy. Last year, Members may recall, we began with no energy policy. For various reasons—organizations, committees did not get to the work—we had no policy. When we talk policy, we are talking broader than the details; we are talking about a vision, where we need to be and the best way to get there over a period of time. I know how difficult it is because we deal with issues before the Senate on a daily basis. However, the most important function of the Congress and the Senate is to make policy. Others do the details and the implementation. Our emphasis ought to be on where we want to go, where we want to be over a period of time and, in broad terms, how we get there.

We are now in the process, I am pleased to say, of coming up with an energy policy. Hopefully, it will be a broad policy that will include what we think our needs will be and then talk about how we get there. The policy will include, certainly, research. There will be new ways of generating energy for ourselves. We will be using different kinds of energy over time, including hydrogen. Certainly we will be looking at conservation. There is no question there are many ways we can save in the amount of energy we each use; we can reduce our demands on energy. There will be emphasis on alternative means, including hydrogen cars, and perhaps hydrogen for other purposes as well.

Most importantly, in the short term, we will look at increasing domestic production of energy. We have the resources in our country to have considerably more energy made available than we do now. When we do it, for instance, in the case of coal, one of the largest resources of energy we have, we have to continue to look for ways to produce it in a clean fashion so we can have good climate, clean skies.

I am hopeful we can continue to emphasize the future, where we need to be, how we are going to get there. We are going to have to recognize things have changed, for instance, in the area of electricity. Years ago, certainly, generators were also distributes of what they generated in their own retail markets. Now we have changed that and 40 percent of the generation is done by so-called marketing generators that do not distribute but sell it wholesale around the country. Obviously, to make that work, we have to have transmission and transportation. That will be something we need as a national grid to be able to move electricity from the source to the area of consumption. That has changed. That is different than in the past. We will find ways to have cars and trucks that are more conservative in their use of gasoline.

I am pleased we are moving forward. I just left a hearing where we discussed working on that after our recess, that hopefully we can come together with a sensible policy. I hope we do not get tangled up in every detail but, again, have this oriented toward looking out over a period of time as to how we will provide the necessary energy resources and use them in a clean manner. I look forward to that.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

## HONORING OUR ARMED FORCES

Mrs. BOXER. Mr. President, I come to the floor to pay tribute to 14 young Americans who have been killed in the Iraqi war. All of these young men are either from California or based out of California. I have already eulogized 20 individuals from California, either born there, raised there, or based there. So we are now talking about 34 of my constituents who have been killed.

We pray that the killing is coming to an end. I am sure it cannot come soon enough for all Americans. We pray the POWs will be returned safety. We pray for stability. We pray that we can bring our young men and women home, get them out of harm's way, and share the burden of the rebuilding of Iraq with many nations, so that the people of Iraq can realize their hopes and dreams.

SGT Michael V. Lalush, age 23, grew up in Sunnyvale, CA, before his family moved to Virginia in the mid-1990s. He was killed on March 30 in a helicopter crash in southern Iraq. He joined the Marines 2 weeks after graduating from high school in 1997. He was assigned to the Marine Light Attack Helicopter Squadron, Marine Aircraft Group 39, Marine Corps Air Station, Camp Pendleton, CA. He is survived by his parents, a sister in Los Angeles, and grandparents in Folsom, CA.

SGT Brian D. McGinnis, age 23, was assigned to the Marine Light Attack Helicopter Squadron, Marine Aircraft Group 39, Marine Corps Air Station, Camp Pendleton, CA. He was from St. Georges, DE. He is a graduate of William Penn High School in New Castle, DE, where he was a star member of the wrestling squad. He was killed March 30 in a helicopter crash in southern Iraq. He is survived by his wife, who is living at Camp Pendleton in California, and he is also survived by his parents.

PFC Christian D. Gurtner, age 19, was assigned to the 3rd Light Armored Reconnaissance Battalion, 1st Marine Division, Marine Corps Air-Ground Combat Center, Twenty-Nine Palms, CA. He was killed April 2 as a result of a noncombat weapons accident in southern Iraq. He is from Ohio City, OH. In March, 2002, while still a high school senior at Van Wert High School, he enlisted in the Marines. His grandfather fought in World War II, and a great-grandfather served in World War I. He also had relatives who fought in Vietnam. His friends have said that Christian loved bowling, the Atlanta Braves, and Ohio State football.

CPL Erik H. Silva, age 22, from Holtville, CA, was killed in action in Iraq Thursday. Erik was assigned to the 3rd Battalion, 5th Marines, 1st Marine Division, based at Camp Pendleton, CA. He graduated from Holtville High, where he played the trumpet, was a drum major, and a member of the varsity golf team. He wanted to pursue a career in law enforcement. He is survived by his mother, living in Chula Vista, CA; two brothers; and a sister, who is currently serving in the Navy.

CPT Benjamin W. Sammis, age 29, was assigned to the Marine Light Attack Helicopter Squadron, Marine Aircraft Group 39, 3rd Marine Aircraft Wing, Camp Pendleton, CA. He was killed in action on April 4 when his AH–1W Super Cobra helicopter crashed during combat operations in Iraq. His hometown was Rehoboth, MA. He was a sailor, an Eagle Scout, a military school graduate, and a career marine, who had yearned to fly helicopters and jets since he was 10 years old. He is survived by a wife, his parents, and two brothers.

PFC Chad E. Bales Metcalf, age 20, was assigned to the 1st Transportation Support Battalion, 1st Force Service Support Group, Camp Pendleton, CA. He was killed on April 3 in a vehicle accident during convoy operations in Iraq. A native of Texas, Chad was born in Lubbock and grew up in Coahoma, where he played high school football. He is survived by his parents, two half sisters, and two half brothers.

CPL Mark A. Evnin, age 21, joined the Marines in 2000. He was assigned to the 3rd Battalion, 4th Marine Regiment, 1st Marine Division, Twentynine Palms, CA. He was killed in action on April 3 during a firefight in central Iraq. Corporal Evnin was from Burlington, VT. In the last letter he sent to his mom, he mentioned that he decided to go to college to study international relations.

CWO Eric A. Smith, age 41, lived in San Diego, CA, for a few years in the eighties. During his time in San Diego, he became acquainted with some Air Force pilots who sparked his interest in becoming a pilot. He joined the Army in 1987. Chief Warrant Officer Smith was killed when his Black Hawk helicopter crashed in central Iraq on Wednesday, April 2. He was assigned to the 2nd Battalion, 3rd Aviation Regiment, Hunter Army Airfield, GA. He grew up in Rochester, NY. Eric played soccer at Brighton High School and graduated from the Rochester Institute of Technology.

CAPT Travis A. Ford, age 30, lived in Oceanside, CA, with his wife and their 1-year-old daughter. He was assigned to the Marine Light Attack Helicopter Squadron, Marine Aircraft Group 39, 3rd Marine Aircraft Wing, Camp Pendleton, CA. He was killed in action on April 4 when his AH–1 Super Cobra helicopter crashed during combat operations in Iraq. He grew up in Nebraska.

PVT Devon D. Jones, age 19, was from San Diego, CA. He was killed in a vehicle accident on April 4 in Iraq. Private Jones was assigned to the 41st Field Artillery Regiment, Fort Stewart, GA. He graduated from San Diego's Lincoln High School in 2002. He planned to become an English teacher and serve as a teaching intern at Kennedy Elementary School located across the street from his high school.

SGT Duane R. Rios, age 25, was assigned to the 1st Combat Engineer Battalion, 1st Marine Division based at Camp Pendleton, CA. He was from Griffith, IN. He was killed on April 4 during a firefight in central Iraq. Sergeant Rios was a 1990 graduate of Griffith High School in Indiana. He is survived by his wife living at Camp Pendleton and his parents.

1stSGT Edward Smith, age 39, was from Vista, CA. He joined the Marines when he was 17. He was assigned to the 2nd Battalion, 5th Marine Regiment, 1st Marine Division based at Camp Pendleton, CA. He also served as an Anaheim, CA, reserve police officer. He died April 5 as a result of wounds received in combat in central Iraq. Edward was born and raised on the south side of Chicago. He graduated in 1982 from Cosmopolitan Preparatory School. He is survived by his wife and three children.

CPL Jesus Martin Antonio Medellin, age 21, was assigned to the 3rd Assault Amphibian Battalion, 1st Marine Division, Camp Pendleton, CA. He was from Fort Worth, TX. Corporal Medellin was killed on April 7 in central Iraq after his vehicle was hit by enemy fire. He was active in his church. He loved his grandma's tortillas, and he enjoyed spending time with his 11-year-old brother.

PFC Juan Guadalupe Garza, Jr., age 20, was assigned to the 1st Battalion, 4th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was born in Michigan. Private First Class Garza was killed in action on April 8 in central Iraq.

Mr. President, 34 men who were either from California or based in California have died in the Iraqi war. The people of California, and I know the people of the whole country, mourn their loss and all the other losses we have had. May these beautiful young Americans rest in peace, may all the fighting end soon, and may we pray for the souls of those we have lost.

I cannot help but note that Cpl Mark Evnin, age 21, wrote to his mother and said he wanted to study international relations. I hope and pray, in his memory, that we can forge relations in this world such that war is not a necessary tool; that we can forge relations in this world such that the power of democracy and our ideals will be shared by the people of the world, and that the power of those ideals will lead the whole world to peace.

Mr. HATCH. Mr. President, today my heart is heavy. Though our Nation's forces continue to make dramatic gains to rid the world of a tyrant who cares not for basic human dignities, three sons of Utah have made the ultimate sacrifice so that a nation may be reborn in freedom. There names are SSG James W. Cawley, United States Marine Corps Reserve, SSG Nino D. Livaudais, of the Army's Ranger Regiment, and Randall S. Rehm, of the Army's 3rd Infantry Division.

To their families, I know that no words that I say here today will alleviate the sense of loss that you feel. You see, I too, lost a brother during the Second World War. But their families should know this, that our communities are with you and will stand behind you, that our State of Utah is praying for you and keeping you in our thoughts, and that our Nation will remember and honor your loss.

The death of these three men shows once again that it is our Nation's finest who answer the call of the colors.

Sergeant Cawley of Layton had dedicated his whole life to the protection of others. He was a Marine Reservist, who in civilian life was a Salt Lake City police officer. He was a member of that department's SWAT team and gang unit. Before joining the department he served for 12 years on active duty with the Marines, traveling the world. During one of his deployments to Okinawa he met his wife Miyuki, and they have two children, Cecil and Keiko. I join the entire Senate in telling those children that their father was someone to be proud of.

Sergeant Livaudais grew up around Ogden. He might have only been 23 years old, but he was already a combat veteran twice serving in Afghanistan. He truly died a hero's death, racing to protect a pregnant woman who was being used as a human shield. He fell victim to an explosion caused by a homicide bomber. His selfless act only reaffirms his unit's motto: ''Rangers Lead The Way.'' He leaves behind a wife, two children, and a third child on the way. To his children who, in the coming years, might look back on these events in order to get a better understanding of who their father was and what he stood for, they should know this: Your father represents the very best that our Nation has to offer.

Sergeant Rehm was not a native of Utah, but we were honored to have him and his family in Utah for 3 years when the Sergeant ran the Army's Salt Lake City recruiting office. He helped so many young people make the important decision to enter Government service. He died in the fighting near Baghdad International Airport, but his memory and spirit will live on in all of the young soldiers that he introduced to the Army. They will now carry on his traditions of honor and service.

After all wars monuments are built and ceremonies are held. However, for me the greatest memorial that can be erected to theses fine men is to remember their names—James Cawley, Nino Livaudais, and Randall Rehm—and to learn from their example, that even now, in these challenging times, all people deserve to be free. It is our responsibility to these heros that we realize a better world for which they fought.

Mr. BROWNBACK. Mr. President, the military campaign to disarm Iraq and free the Iraqi people has been a display of America's technology, power, and compassion. Our fine men and women in uniform have demonstrated that they are not only fully capable of defeating anything that comes their way, but also that they are dedicated professionals even when confronted with the worst sort of cowardice and terrorism. Amidst fake surrenders and using innocent women and children as defensive shields, our troops have stayed on target and have kept civilian casualties to a remarkable minimum.

We now have word that our troops have found what may be chemical weapons on warheads. If proven, this will indeed be the answer to those who claimed that Saddam was not an imminent threat. It is unfortunate that some of our so-called allies, namely France, could not see this danger. But it is a reminder to every American—of just how important it is for the U.S. to act in preserving our security—and not to defer our defense to countries that refuse to face today's new threats.

When completed, military action is only half the battle. In order to secure a long-term peace in the region, and consequently, security for our Nation; we need to ensure a strong and vibrant democracy thrives in a new post-Saddam Iraq.

There have been numerous questions raised about the likelihood of such a transition. But based on my long experience in working with the Iraqi opposition, I strongly believe a better day is around the corner for Iraq. It will not be easy, but it is very likely. Allow me to explain a few reasons why this is not mere optimism.

Iraq is not Afghanistan—the problems we have seen in reconstructing Afghanistan will largely not be present when it comes to Iraq for many reasons. First, Iraq is a resource-rich nation and can afford to pay for its own reconstruction. Second, Iraq is not filled with religious radicals that plagued Afghanistan. And third, Iraq does not have armed warlords to settle with. In fact, Iraq has a history of having an educated and sophisticated population with a unique focus in the fields of technology and medicine. This will be a huge asset which will make a transformation to democracy more plausible.

There will need to be an extensive ''de-Bath'ification'' of the nation—just as in Germany it was necessary to ''de-Nazify'' much of that country's leaders following WWII. Even after this process, there will remain numerous ethnic, tribal and religious factions within the country that will likely have strong differences of opinion. But that is true of nearly every society and hardly a reason to believe there could be no democratic government. In fact, it makes it more likely that those differences will finally be recognized and worked out through a more productive manner than the use of brute force.

Iraq has a historical model for a federated democratic system—Much like Britain, Iraq used to have two parliamentary bodies. Opposition groups are working to reconstruct that model now to replace the existing regime. This is important because it shows that democracy as a concept, is not something that is being imposed on the Iraqi people, but rather, something that is being brought back to them from their own people. The U.S. should continue to work with all the Iraqi opposition groups in order to assist in this noble goal.

Iraqi opposition leaders have already held elections to replace Saddam—Just last month, members of numerous Iraqi opposition groups met inside northern Iraq and elected six leaders to help in the transition to a democratic government once Saddam Hussein is gone. These opposition members come from very diverse religious and ethnic backgrounds. But they agree on the basic principles—that Iraq should be a federated democracy which respects the freedoms of religion, speech, and respects human rights.

These Iraqi exiles have returned to fight for their homeland side by side with American forces. They have been flown into southern Iraq and are working with the local people there, as we speak, to help unify and embrace a peaceful transition to democracy.

I had an opportunity to meet with many of these now elected Iraqi leaders in a meeting with them in London this past December. I saw then, and I see now, the unity that they are creating. It is not always picture perfect. Democracy never is. But too often, there has been a tendency to write off the important work and success of these leaders. We should not underestimate them. We should instead, use our energies to help make their dreams for a peaceful and prosperous Iraq, into a reality.

Iraq's ultimate success will have to come from the Iraqi people—and it will! This is also why I believe we will see a strong, democratic Iraq in the near future. The people of this country have suffered under the rule of a tyrant. They have watched as their neighbors in Iran increasingly rise up to protest against the tyranny of the Islamic regime. They see the destitution that years of terrorism has brought to the Palestinian people. Democracy is the only way forward—and the people of Iraq know it. We don't have to convince them of it, but we do have to help them implement this dream. That will be the role for reconstruction in the months to come.

If there is a danger that we face in looking at reconstruction policy in Iraq, it comes from holding on to the old belief system that the Middle East just can not handle democracy. Sadly, there are many in various government agencies who strongly cling to this view. We must make sure that those who hand out the funds to rebuild Iraq are on target with the President's vision. We will only get one chance to do this right. We must not revert back to the lobbying of dying regimes in the region. We must stay true to the bold vision that democracy in Iraq is coming.

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FRIST. Mr. President, there has been an objection made to the Judiciary Committee meeting today. Thus, as the only way to allow that committee to continue its very important work for the people of the United States of America, I am forced to ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 12:06 p.m., recessed subject to the call of the Chair and reassembled at 3:05 p.m. when called to order by the Presiding Officer (Mr. CRAPO).

The PRESIDING OFFICER. The Senator from Utah.

## UNANIMOUS CONSENT REQUEST—CONFERENCE REPORT TO ACCOMPANY S. 151

Mr. HATCH. Mr. President, I ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the consideration of the conference report to accompany S. 151, the PROTECT Act, and it be considered as follows: There be 2 hours of debate equally divided in the usual form.

I further ask unanimous consent that following that debate time, the Senate proceed to a vote on the adoption of the conference report, with no intervening action or debate.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

The Senator from Utah.

Mr. REID. Mr. President, if I could ask my friend to yield for a parliamentary inquiry.

Mr. HATCH. Without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I want to make sure my friend from Utah understands that we, of course, would have no objection to going to the conference report. Our problem is having the majority leader set a time for completing this legislation. We have a number of people on our side who wish to speak. We would be willing to go to the conference report but with no time constraints. I want to make sure my friend understands that.

Mr. HATCH. Could I ask the distinguished Senator how much time he would need?

Mr. REID. I don't really know how much time. I know the Senator from Massachusetts wishes to speak, and he may want to speak for a little while. I think the best thing to do would be to go to the conference report. We have been basically doing nothing for 3 hours today anyway. I am sure it wouldn't take very long. But I don't have any idea. If I could, through the Chair, inquire of the Senator from Massachusetts, does the Senator from Massachusetts have any estimate as to how long we should be on this important legislation?

Mr. HATCH. I yield without losing my right to the floor.

Mr. KENNEDY. I intend to speak about this for some time, and then at the appropriate time I will make a point of order in terms of the bill.

Mr. HATCH. I am sorry to see the objection on this matter because I believe this is one of the most important bills we will ever enact in the Senate, especially with regard to our children, but with regard to criminal law in general.

## CLEAN DIAMOND TRADE ACT

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 1584, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1584) to implement effective measures to stop trade in conflict diamonds, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I rise today in strong support of the Clean Diamond Trade Act. Clean Diamond legislation passed unanimously through the Finance Committee on April 2, by a voice vote. The bill we are taking up today is nearly identical to the bill that passed the House of Representatives on April 8, 2003, by a vote of 419 to 2. Today, with the passage of this bill, the Senate is taking a step toward bringing our Nation into compliance with our responsibilities as a participating Nation in the Kimberly Process Certification Scheme.

Passage of this legislation is a true bipartisan success and a significant step forward in stopping trade in conflict diamonds. I would like to thank my colleagues for helping to develop the compromise legislation in this act. I would especially like to recognize the hard work of Senators GREGG, DEWINE, DURBIN, BINGAMAN, and FEINGOLD, whose devotion and dedication to stopping trade in conflict diamonds is unsurpassed.

The Clean Diamond Trade Act will implement the Kimberley Process Certification Scheme. This is an international agreement establishing minimal acceptable international standards for national certification schemes relating to cross-border trade in rough diamonds. It represents over 2 years of negotiations among more than 50 countries, human rights advocacy groups, the diamond industry and nongovernment organizations. The Kimberley Process Certification Scheme will help end the trade in conflict diamonds, which has been fueling conflicts in some African countries for many years, leading to human rights atrocities that are beyond anything we in America have ever experienced. I am pleased that we can help put an end to these atrocities with this legislation.

The next plenary session of the Kimberley Process is scheduled to convene in Johannesburg, South Africa, from April 28 to 30, 2003. The U.S. played a leadership role in crafting the Kimberley Process Certification Scheme, and it is critical that we implement the certification process before April 28 if we are to retain this leadership. We also need to do this to ensure that the flow of legitimate diamonds into and out of the United States will continue without interruption. Most important, we need to do everything we can to stop trade in conflict diamonds as soon as possible.

This is a trade issue, a consumer issue, and most of all, a human rights issue. Legitimate trade can elevate the standard of living for people all over. This bill sends a strong message that the benefits of trade in valuable natural resources like diamonds should accrue to the legitimate governments and their people in Africa.

I would like to take this opportunity to thank the members of my staff whose hard work helped to get us to this point. First and foremost, my Finance Committee staff led by Kolan Davis, my Chief Trade Counsel Everett Eissenstat, along with Carrie Clark, Zach Paulsen and Nova Daly. And I would like to acknowledge Senator BAUCUS's staff Tim Punke and Shara Aranoff for their help in getting this bill through the Finance Committee and to the Senate floor. I hope this bill will receive wide support.

Mr. DURBIN. Mr. President, today the Senate has taken up and will unanimously pass the Clean Diamonds Trade Act, H.R. 1584, the House companion to S. 760, which I have cosponsored. The bill implements U.S. participation in the Kimberley Process Certification Scheme, an international arrangement to respond to the scourge of conflict diamonds.

In war-torn areas of Africa, rebels and human rights abusers, with the complicity of some governments, have exploited the diamond trade, particularly alluvial diamond fields, to fund their guerrilla wars, to murder, rape, and mutilate innocent civilians, and kidnap children for their forces. Al-Qaida terrorists and members of Hezbollah have also traded in conflict diamonds.

While the conflict diamond trade comprises anywhere from an estimated 3 to 15 percent of the legitimate diamond trade, it threatened to damage an entire industry that is important to the economies of many countries, and critical to a number of developing countries in Africa.

Governments, the international diamond industry, and non-governmental and religious organizations worked hard to address this complex issue, while setting an impressive example of public-private cooperation. For the last several years, the Kimberley Process participants have been working to design a new regimen to govern the trade in rough diamonds.

I introduced several bills on this subject over the last several years, along with Senator MIKE DEWINE and Senator RUSS FEINGOLD, to reflect the consensus that had developed between the religious and human rights community and the diamond industry on the U.S. response to this issue. Senator JUDD GREGG, who had introduced his own amendments and legislation dealing with this issue in the past, joined in cosponsoring our bill, as did a bipartisan group of 11 additional Senators.

In the House of Representatives over the last several years, former Representative Tony Hall and Representative FRANK WOLF were leaders on this issue, as is Representative AMO HOUGHTON, who took the lead in introducing the House version of the bill this year.

In the bills I had sponsored in the past, my aim had been to push for the strongest possible international agreement—showing leadership in the United States and strong support in Congress for a meaningful certification and monitoring agreement. Now that an international agreement has been reached, many of my concerns have been addressed.

We have learned about the horror that has resulted when illicit diamonds fueled conflicts in Africa. Rebels from the Revolutionary United Front, RUF, funded by illegal diamonds and supported by Liberia terrorized the people of Sierra Leone—raping, murdering, and mutilating civilians, including children.

If the fragile peace in Sierra Leone is to be maintained, profits from that country's diamonds must not fall into the hands of such brutal rebels again. Anti-government rebels in Angola and the Democratic Republic of the Congo continue to fight and are also supported by the sale of illicit diamonds.

We have learned that members of the Al-Qaida network may have bought large quantities of these illegal conflict diamonds from rebels in Sierra Leone in advance of September 11, anticipating that the United States would seek to cut off its sources of funds. An article in the Washington Post by Douglas Farah, on November 2, 2001, outlined the Al-Qaida connection and showed that Al-Qaida terrorists on the FBI's ''Most Wanted'' list bought conflict diamonds at below-market prices and sold them in Europe.

We have learned that the Lebanese terrorist group, Hezbollah, has participated in the conflict diamond trade and that it has been a source of funding and a way to launder funds for drug dealers and other criminals.

It is now clear that ending the trade in conflict diamonds is not only the just, right, and moral thing to do, it is also in our immediate national interest in our fight against terror.

If the crisis in Afghanistan has taught us anything, it must be that we ignore failed, lawless states at our peril.

American consumers who purchase diamonds for some happy milestone in their lives, such as an engagement, wedding, or anniversary, must be assured that they are buying a diamond from a legitimate, legal, and responsible source.

The Kimberley system will allow American consumers to have some confidence that they are buying ''clean'' diamonds, and will also serve our local jewelers and diamond retailers. The jewelers in our local malls and downtown shops do not want to support rebels and terrorists in Africa any more than consumers do.

I heard from a jeweler in my hometown of Springfield, IL, Bruce Lauer, president of the Illinois Jewelers Association, who wrote:

> The use of diamond profits to fund warfare and atrocities in parts of Africa is abhorrent to all of us. . . . As the owner of Stout & Lauer Jewelers in Springfield, I know firsthand the importance of diamonds to my customers. A diamond is a very special purchase symbolizing love, commitment and joy. It should not be tarnished with doubt. . . . We want to be able to assure our customers unequivocally that the diamonds in our stores come from legitimate sources.

There are not many issues that can bring together Senators and Congressmen across the political spectrum; that can bring together the human rights community and the diamond industry; and that can unite leaders of every religious denomination.

The horror of what has happened to the people of Sierra Leone and especially to its children has brought us together to fight this evil by cutting off the rebel's source of support—the illicit diamond trade. Now it brings us together to fight the terrorists who have murdered our own citizens, in our own country.

The world was shocked and horrified by the murder, mutilation, and terror imposed on the people of Sierra Leone by rebels funded with conflict diamonds. The moral outcry by religious and human rights groups galvanized governments and the diamond industry to address the problem. Now is the time to close the deal and to implement the Kimberley Process Certification Scheme.

I want to say how pleased I am that the Senate came to a consensus on this bill. I am especially grateful to Senator GRASSLEY and his trade counsel, Everett Eissenstat, and to Senator BAUCUS and his trade counsel, Shara Aranoff, for their careful work in being sure that my concerns and those of other Senators and the Clean Diamonds Coalition were addressed in the bill.

I am pleased that my concerns were addressed about the possibility that the Kimberley system could be circumvented by cutting rough diamonds, by calling for a report that would flag such actions if it becomes a problem, so action can be taken.

It is very important that the United States move quickly to fulfill its promise to implement the Kimberley agreement, and this consensus bill will allow this country to do so in a timely way.

AMENDMENT NO. 529

Mr. HATCH. I ask unanimous consent that the Grassley substitute be agreed to, that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment (No. 529) was agreed to.

The bill (H.R. 1584), as amended, was read the third time and passed.

## PROSECUTORIAL REMEDIES AND OTHER TOOLS TO END THE EXPLOITATION OF CHILDREN TODAY (PROTECT) ACT OF 2003—CONFERENCE REPORT

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany S. 151, the PROTECT Act.

The PRESIDING OFFICER. The clerk will report the conference report.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 151), to prevent child abduction and the sexual exploitation of children, and for other purposes, having met, have agreed that the Senate recede from its disagreement to the

amendment of the House, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of April 9, 2003.)

Mr. HATCH. I rise in support of the conference report on S. 151, the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, which truly represents landmark bipartisan legislation to protect our children.

On Tuesday of this week, the House and Senate conferees met and reached agreement on this important piece of bipartisan legislation. Earlier this morning, the House of Representatives passed the legislation by an overwhelming vote of 400 to 25.

I was hoping I could come to the floor to make a statement commending the Senate for working together as we had on so many other occasions on many important issues like this important piece of legislation which is needed to protect our children.

Unfortunately, this is not a proud day for the Senate, and unless we get this bill passed, it will be a sad day.

The spirit of bipartisanship appears to me to be fading, as my Democratic colleagues seek to obstruct and delay rather than working together to solve our Nation's problems and pass this important piece of legislation. Having listened to the distinguished Senator from Massachusetts, I have hope that there will not be obstruction or delay on this bill, and perhaps there won't be as he seeks his point of order. The spirit of obstructionism that I have been worried about, which we have experienced all year long, has now reached a difficult point here. If there is a desire to stop this bill in the Senate through a point of order, or otherwise, then I think it would exhibit a willingness to sacrifice the protection of our own children for political advantages. I hope that is not the case.

If it is, I will be deeply saddened by this turn of events, and I urge my colleagues on the other side to rethink their strategy and approach to so many issues.

In particular, when it comes to this issue of protecting our children, I think we ought to get this bill done. We need to cast aside partisan disputes and quickly pass this measure and send it to the President for signature as soon as possible.

Let me take a moment to commend the House of Representatives, and Judiciary Committee Chairman SENSENBRENNER in particular, for their tireless dedication to this legislation. Chairman SENSENBRENNER has demonstrated his commitment time and time again to passing this measure quickly during this new session of Congress. Thanks to our House colleagues, we in the Senate now have an opportunity to pass not only an AMBER alert bill, but a truly comprehensive package of measures that will protect our children from vicious criminals, pornographers, sexual abusers, and kidnappers. These types of individuals who prey on our Nation's youth are nothing less than the scum of the earth who deserve every ounce of punishment which we as a nation can fairly and justly mete out.

The problem of child abuse and child exploitation is simply mind-boggling. The recent wave of child abductions across the Nation, including the kidnapping of Elizabeth Smart in my own State of Utah, has highlighted the need for legislation to enhance our ability to protect our Nation's children against predators of all types.

I have a letter addressed to the Senate and the House of Representatives, signed by Ed and Lois Smart, Elizabeth's mother and father, as well as Elizabeth Smart, dated April 9, 2003. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 9, 2003.

U.S. Senate,
U.S. House of Representatives,
*Washington, DC.*

AN OPEN LETTER TO THE UNITED STATES SENATE AND HOUSE OF REPRESENTATIVES:

We wish to express our sincerest appreciation to all of you who have played such a key role in moving forward legislation that includes the National Amber Alert. We applaud those members of the conference committee who exhibited the foremost cooperation in working out a compromise that will greatly benefit every child in America.

Today, we are writing to encourage you to quickly pass this legislation so that it can be signed into law. The Amber Alert as well as other preventative measures will make an immediate difference in safely rescuing those who are abducted and in preventing crimes against children.

We can't begin to express our joy and gratitude in having Elizabeth back home. It is our hope and prayer that immediate passage will save countless families from the trauma and sorrow caused by the senseless acts of those who prey on children.

Sincerely,

EDWARD SMART.
LOIS SMART.
ELIZABETH SMART.

Mr. HATCH. Mr. President, I will take a moment to address some of the significant components of this measure. First, the PROTECT Act of 2003, which I and Senator LEAHY introduced following the Supreme Court's decision in Ashcroft v. Free Speech Coalition, has been my top legislative priority since last year. Congress has long recognized that child pornography produces three distinct, disturbing, and lasting harms to our children. First, child pornography whets the appetites of pedophiles and prompts them to act out their perverse sexual fantasies on real children. Second, it is a tool used by pedophiles to break down the inhibitions of children. Third, child pornography creates an immeasurable and indelible harm on the children who are abused to manufacture it.

It goes without saying that we have a compelling interest in protecting our children from harm. The PROTECT Act strikes a necessary balance between this goal and the first amendment. The PROTECT Act has been carefully drafted to avoid constitutional concerns. The end result of all of our hard work is a bill of which we can be proud, one that is tough on pedophiles and child pornographers in a measured and constitutional way.

The legislation also addresses AMBER alert, America's Missing Broadcast Emergency Response. The bill will extend the AMBER alert system across our Nation. Our entire Nation recently rejoiced with the Smart family after Elizabeth was found alive and reunited with her loved ones. Her discovery, facilitated by everyday citizens who followed this case, demonstrates the importance of getting information about these disappearances out to the public quickly.

When a child is abducted, time is of the essence. All too often, it is only a matter of hours before a kidnapper commits an act of violence against the child. Alert systems, such as the AMBER alert system, galvanize entire communities to assist law enforcement in the timely search for and safe return of child victims.

This legislation will enhance our ability to recover abducted children by establishing a coordinator within the Department of Justice to assist States in developing and coordinating alert plans nationwide. The act also provides for a matching grant program through the Department of Justice and the Department of Transportation for highway signs, education and training programs, and the equipment necessary to facilitate AMBER alert systems. I support the national AMBER Alert Network Act because it will improve our ability on a national level to combat crimes against our children.

Also, I want to take a moment to highlight another very important measure. The legislation includes the Code Adam Act, which would require Federal buildings to establish procedures for locating a child that is missing in the building. The provision is named after the son of John Walsh, the host of America's Most Wanted and the John Walsh Show. As everybody knows, John Walsh's son, Adam, was kidnapped from a mall in Florida and murdered in 1981. Retail stores around the country, including Wal-Mart, have initiated Code Adam systems in memory of Adam, and they have successfully recovered many missing children. This would implement the same system for building alerts in all Federal buildings. It is a measure I am proud to support in memory of John Walsh's son, Adam, and in honor of John Walsh's commitment and vigilance to fighting for crime victims and our children throughout the country.

On Tuesday, John Walsh attended the meeting of the conferees to discuss this legislation. Yesterday, John Walsh issued the following statement:

This incredible bill may be one of the most important pieces of child protection legislation passed in the last 20 years. I commend Senator HATCH's leadership on the Judiciary Committee and Chairman Sensenbrenner's leadership on the House Judiciary. Pushing this bipartisan legislation through is very appropriate during ''National Crime Victims' Rights Week.'' This bill, which is a loud voice for the smallest victims—children—has sent a loud message to those who would prey upon our most vulnerable segment of society.

I also want to highlight other important measures contained in the conference report that will enhance existing laws, investigative tools, criminal penalties, and child crime resources in a variety of ways.

As the chart shows—the print is small—in addition to the PROTECT Act, AMBER Act, and the Code Adam Act, the legislation would, No. 1, provide a judge with the discretion to extend the term for supervision of released sex offenders up to a maximum of life; No. 2, extend the statute of limitations for child abductions and sex crimes to the life of a child; No. 3, denies pretrial release for child rapists and child abductors; No. 4, require a mandatory sentence of life imprisonment for twice-convicted serious child sex offenders; No. 5, increase penalties for kidnapping of under 18-year-old victims by nonfamily members; No. 6, add new wiretap predicates that relate to sexual exploitation crimes against children; No. 7, increase penalties and provide prosecutors with enhanced tools to prosecute those who lure children to porn Web sites using misleading domain names; No. 8, reauthorize and double the annual grant to the National Center for Missing and Exploited Children to $20 million each year through 2005; No. 9, authorize funding for the Sex Offender Apprehension Program to allow money to be used by local law enforcement to track sex offenders who violate terms of their release; No. 10, create a national Internet site for information regarding registered sex offenders; No. 11, establish a pilot program for national criminal history background checks and a feasibility study in order to provide a background check process for volunteers working for organizations, such as the Boys and Girls Clubs of America, National Mentoring Partnership, and the National Council of Youth Sports; No. 12, reauthorize grant programs to provide funding of child advocacy centers; No. 13, reforms sentencing for criminals convicted of crimes against children and sex crimes.

All of that is done in this particular bill. It is a very important bill, as you can see.

The bill also institutes sentencing reforms so that criminals convicted of crimes against children receive the stiff sentences they deserve. This provision, which was adopted at the conference, represents a significant compromise from the original House bill containing the so-called Feeney amendment which passed the House by a vote of 357 to 58. Indeed, the overall House bill passed the House by an overwhelming vote of 410 to 14.

In response to concerns raised about the Feeney amendment, I worked with Chairman SENSENBRENNER, Senator GRAHAM, and my colleagues to develop a bipartisan compromise which was ultimately supported by not only all of the Republican conferees, but by Democratic conferees as well—Senator BIDEN, as well as Congressmen FROST, MATHESON, and HINOJOSA.

The compromise proposal would:

No. 1, limit, but not prevent, downward departures only to enumerated factors for crimes against children and sex offenses;

No. 2, change the standard for review of sentencing matters for appellate courts to a de novo review, while factual determinations would continue to be subject to a ''clearly erroneous'' standard;

No. 3, require courts to give specific and written reasons for any departure from the guidelines of the Sentencing Commission; and

No. 4, require judges to report sentencing decisions to the Sentencing Commission.

It is important to note that the compromise restricts downward departures in serious crimes against children and sex crimes and does not broadly apply to other crimes, but because the problem of downward departures is acute across the board, the compromise proposal would direct the Sentencing Commission to conduct a thorough study of these issues, develop concrete measures to prevent this abuse, and report these matters back to Congress.

For those who want to oppose these needed sentencing reforms, I remind them that the Sentencing Reform Act of 1984 was designed ''to provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct.''

While the U.S. Sentencing Commission promulgated sentencing guidelines to meet this laudable goal, courts, unfortunately, have strayed further and further from this system of fair and consistent sentencing over the past decade.

Let me refer to this chart. As the chart shows, during the period 1991, in the left part of the chart, to the year 2001, the number of downward departures—in other words, soft-on-crime departures, excluding those requested by the Government for substantial assistance and immigration cases along the Southwest border—has steadily climbed.

In 1991, the number of downward departures was 1,241 and rose by 2001 to a staggering total of 4,098. This chart shows the rate of downward departures has increased over 100 percent during this period—in fact, almost four times—and nearly 50 percent over the last 5 years alone.

This problem is perhaps most glaring in the area of sexual crimes and kidnapping crimes.

This chart of downward departures from sentencing guidelines for sex crimes shows that during the last 5 years, trial courts granted downward departures below the mandated sentencing in 19.20 percent of sexual abuse cases, 21.36 percent of pornography and prostitution cases, and 12.8 percent of kidnapping and hostage-taking cases. Think about it: Downward departure in these types of cases that involve our children. This many departures happens to be very disturbing and astounding considering the magnitude of the suffering by our Nation's youth at the hands of pedophiles, molesters, and pornographers.

Let me give one example of the abuse this sentencing reform will correct. In one particular case, a defendant was charged—this is a convicted child pornographer—with possession of 1,300 separate images of child pornography, depicting young children in graphic and violent scenes of sexual exploitation that were sickening and horrible. For example, one of the images showed a young girl wearing a dog collar while engaging in sexual intercourse with an adult male. This same defendant was engaging in online sexual communications with a 15-year-old girl.

The sentencing guideline for this defendant mandated—these are the sentencing guidelines the distinguished Senator from Massachusetts, the distinguished Senator from Delaware, and a number of us, including myself, passed long ago—the sentencing guidelines for this defendant mandated a sentence in the range of 33 to 41 months. Yet the trial judge departed downward to a sentence of only 8 months, citing, No. 1, the defendant's height. He was just short of 6 feet tall, and he said that would make him vulnerable to abuse in prison. No. 2, he said the defendant was naive. And No. 3, the defendant's demeanor—he was meek and mild and compassionate.

We all have common sense, but this is simply incredible and outrageous. Congress has to act, and it has to act now. The compromise sentencing reform provisions contained in the conference report are a reasonable and measured response to this problem.

The compromise proposal would simply require judges to sentence these vicious defendants in accordance with the law and not seek new areas or new legal justifications for reducing sentences for these defendants without specific authorization from the U.S. Sentencing Commission.

Contrary to the oft-repeated claims of its opponents, the compromise proposal is not a mandatory minimum. Judges handling these important criminal cases can still exercise discretion to depart downward, but only when the Sentencing Commission specifies the factors that warrant a downward departure.

The other major reform in the compromise adopted in the conference report is consistent with prevailing law, requiring de novo review of a trial judge's application of facts to law. Indeed, this is the same standard that applies to appellate review of critical motions to suppress physical or testimonial evidence. There is no reason for appellate judges to give deference to the trial judge on such questions of law.

Even after the compromise amendment, the trial judge's factual determinations will still be subject to great deference under a ''clearly erroneous'' standard. If a discretionary downward departure is justifiable, it is difficult to understand why anyone would be opposed to the appellate courts reviewing them under the same standard that applies to other important areas of law.

I wish to take a moment to remind everyone to focus on the problem we face: an epidemic of abuse of our children. According to the National Center for Missing and Exploited Children—these facts really are not only astounding, they are deplorable—in our country, 3.9 million of the Nation's 22.3 million children between the ages of 12 and 17 have been seriously physically assaulted, and 1 in 3 girls and 1 in 5 boys are sexually abused before the age of 18. That is unbelievable, but that is what is going on, and that is why this bill is so important. That is why we need to pass it today.

Considered in this context, we can have an honest debate about the issues, but we have an epidemic that needs to be addressed and addressed now. We simply have no greater resource than our children. It has been said that the benevolence of a society can be judged on how well it treats its old people and how well it treats its young. Our children represent our Nation's future, and I commend all of my colleagues for their tireless efforts on behalf of children and families and urge my colleagues to pass this critical legislation. Quite frankly, our Nation's children deserve no less.

I know there are some misunderstandings from the conference, but virtually everybody but a number of Democrats have signed off on this, including a number of Democrats have signed off on this conference report, knowing what it says, knowing what it means, knowing what it was represented to mean. I acknowledge some of my dearest friends on the other side feel otherwise, but I believe it was made quite clear during conference what this actually means.

I urge my Democratic colleagues to stop any partisanship or partisan gamesmanship and support this needed legislation. I do not think we should let our children or our communities down. We need to pass this legislation without delay and send it to the President.

The epidemic of downward departures in child pornography cases has created what I like to call the ''Me Too'' sentencing pitch from the defense. In a recent case in Kansas, the judge departed from the Sentencing Commission's guideline sentence of 27–33 months in prison, and imposed only probation. As part of the reason for the departure, the court stated that it found defense counsel's argument compelling—that in 27.4 percent of cases involving possession of child pornography, sentencing courts have downwardly departed. In other words, the problem is so out of hand, that defense attorney's point to the downward departure statistics and say, ''Me too, Judge, Me Too.''

That is where we are. That is what we are trying to fix. I have to say I have done my best to try to accommodate both sides. I do not know how to accommodate them any differently. Even as late as today, I have tried to see if there was any possibility, but there is not any. I think those who stayed for the full conference knew exactly what was involved, and it is a bipartisan bill. That is apparent from the size of the vote over in the House.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, all of us understand the enormous human tragedy that has been suffered by families in this country who have experienced the abduction of their children. We have had tragic situations in my own State of Massachusetts. All of us know the primary importance of taking every possible step in order to make our children safer. Secondly, if they are abducted, to rescue these children. And finally, to have an appropriate kind of a penalty for those who would be involved in such an extraordinary aberration of conduct and travesty of justice and cruel action. These reasons stimulated the Senate to pass the AMBER alert bill.

We have passed it in the Senate twice already. First, we passed it once on September 10 of last year. I think many of us who supported it at that time were very hopeful we would have had speedy action by the House of Representatives and that they would have sent back to us. It did not seem to us it would take a great deal of time given the needs that are out there in the country. We could understand if the House might want to take a look at it for a few days but report back promptly. Nonetheless, we went through the session and there was no action by the House of Representatives. So, again, on January 21, 2003, it was sent over unanimously from the Senate of the United States, and no action later in January, no action in February, no action in March, and now, finally there is action in April. The House refused to act on these bills on both occasions. Instead, they sent over a conference bill loaded up with the provisions they knew would be strongly objected to in the Senate.

We are enormously supportive of the AMBER bill, but we question and wonder why it should carry with it such extraneous kinds of material which this legislation in this conference report carries. In the final hours of the consideration of the AMBER bill in the House of Representatives, there was an amendment to the AMBER bill offered by Congressman FEENEY. In a period of 20 minutes, it was accepted without any hearings. It was a part of the conference. The Feeney amendment affected the whole issue of sentencing, not just for these kinds of heinous crimes that take place against children but also against the underlying concept of our criminal sentencing provisions, affecting every type of criminal sentence, whether we are talking about terrorists, murderers, burglars or white-collar crime.

The amendment had nothing to do with the abduction of children, but would affect all of the other circumstances. It was never very clear whether that was intended or not. What was brought to my attention and concerned me was the observation that was made by the Chief Justice of the Supreme Court. He observed the Feeney amendment will do serious harm to the basic structure of the sentencing guidelines system and seriously impair the ability of courts to impose just and responsible sentences.

We are all for the AMBER legislation. We are all for the appropriate kinds of penalties for those who are going to violate the law, but this legislation is much more. However the Feeney amendment would do serious harm to the basic structure of the sentencing guidelines system and will seriously impair the ability of courts to impose just and responsible sentences. This is not just an objection from the Senator of Massachusetts, or from the Senate Democrats, this is an objection expressed by the Chief Justice of the United States.

I was personally quite amazed that the Chairman of our committee did not believe this kind of change in the criminal justice system was sufficiently important. I am amazed that he would not support the position of some of us who were conferees who suggested that we ought to have a day of hearings to call in experts, perhaps even the Chief Justice of the United States, or Congressman FEENEY or others who might be in favor of the amendment. This would be an opportunity to understand what the implications were and whether or not it was going to undermine the criminal justice system, as the Chief Justice of the Supreme Court has suggested. But, no, that was turned down. That suggestion that we have a hearing, chaired by Senator GRAHAM of South Carolina, the chairman of our Criminal Justice Subcommittee on the Judiciary Committee was turned down. The suggestion that we might hold a hearing with the understanding that we would expedite any of the recommendations to make sure we were going to target whatever actions we were going to take on the subject matter of the AMBER circumstance, make sure we got it right, that was rejected and turned down.

Then a second suggestion was made to ask the Sentencing Commission to study this and report back in 180 days. Then, we would have an opportunity to look at what the Sentencing Commission had recommended. We could then either accept it or reject it or take whatever action in 180 days. The House of Representatives has taken its time in sending this legislation over. We might be able to make a judgment about whether this should be done or considered in this particular way.

Over the period of these past days, just prior to going to the conference, I was amazed at the kind of additional support I received for the Chief Justice's position. I am sure the chairman of the committee received it as well.

The Judicial Conference of the United States said:

> The Judicial Conference strongly opposes these sentencing provisions because they undermine the basic structure of the Sentencing Commission and impair the ability of the courts to impose just and responsible sentences. We must note our concern and disappointment with the lack of careful review.
>
> Not 1 day of hearings; not 1 hour of consideration; 20 minutes of debate on the floor and the Senate Judiciary Committee virtually accepted it.

Then it continues along to those three chairs of the Sentencing Commission. These are individuals who have been accepted and approved by advice-and-consent votes in the Senate: Dick Murphy, Richard Conboy, William Wilkins. William Wilkins, certainly one of the important conservative jurists who has served in the Federal court system, joined in saying:

> The sentencing provisions are farfetched and effectively rewrite significant portions of the Sentencing Reform Act of 1984. No hearings have been held on a number of significant provisions of the current legislation urged our rejection of it.

The Conference on Civil Rights:

> The Feeney amendment would eviscerate the right to depart.

American Bar Association:

> This provision would fundamentally alter the carefully crafted and balanced position formed by the Reform Act without the customary safeguards and legislative process by effectively eliminating judicial departures. The Feeney amendment strikes a blow at judicial independence and sends an unmistakable message that Congress does not trust the judgment of the judges it has confirmed to offices.

Then we have the list of 618 professors of criminal law and procedure:

> Although adopted by the House with certainly no public hearings or debate, the Feeney amendment would effect a dramatic unwarranted change in Federal sentencing law.

Eight former U.S. attorneys in the Southern and Eastern Districts of New York, one of the most important districts in the prosecution of crime, all, Republican—most Republican and a handful of Democrats' proposed legislation not only disregards the Sentencing Commission's unique role, it also ignores Congress's own admonition.

Even Cato.

Business Civil Liberties, an organization affiliated with the conservative Washington Legal Foundation, also said:

> It sets a dangerous precedent for further restrictions on Federal judges.

All of these groups. All within a matter of a few days.

We raised this in our conference and said we believe we ought to have the time, either for the Judiciary Committee or the Sentencing Commission, to review it if there were these kinds of observations and criticisms.

I say this to underscore why these sentencing guidelines are important. I was here in 1968 when the Brown Commission was set up on the growth of violence in our society, criminal violence. The Commission made a series of recommendations. One of them was that we ought to recodify the Criminal Code because we had so many different ways of interpreting intent—willfully, wantonly, knowingly, unwillingly, lasciviously—all different kinds of mental tests that could be distorted and misrepresented. And we did.

For the first time in 200 years, we recodified it; we took seriously the recommendations. Unfortunately, the House of Representatives failed in their responsibilities.

But one of the other very important recommendations was because of the fact that one of the important reasons this Commission said there had been the growth of crime was the enormous feeling among those inside the criminal justice system and outside of the sentencing provisions that were so wildly out of whack—the same crimes in different jurisdictions and there was no confidence, either by the victims or the defendants or any, in the justice system—that the criminal sentencing provisions were effective, that they worked, or were based upon justice.

So we went about it. We passed sentencing reform three different times in the Senate of the United States before the House of Representatives. It was finally worked out with the Reagan Justice Department. Strom Thurmond was very much involved. It was a bipartisan effort. So we were going to try to have some kind of rationality in the assigning of the penalties for crimes in this country.

It is not without its failings. We understand that. There should be strengthening and improvement. We understand that. But it has worked pretty well.

In fact, a number of States are in the process of adopting very similar guidelines. A number of the States are moving in the direction which we had established. That is enormously important. I think that is one of the things that has been effective.

In any event, when the time came for this discussion, I said: Why, if we can't at least have an examination, since there is widespread application of these provisions, why don't we just take the provisions that apply to children, sex crimes, and say: OK, we'll let those particular provisions that happen to be particularly restrictive, we will let those apply to those kinds of conditions that are there for the crimes that are included in the AMBER legislation?

I thought we had a discussion. I thought the chairman of our Judiciary Committee—who is not the chairman of the conference—the chairman of the committee agreed. I thought he agreed. Senator HATCH repeatedly stated that at Tuesday's conference meeting that his so-called ''compromise'' was limited to sex crimes and children. It retained much of the underlying Feeney Amendment and dramatically limited departures in all cases.

In his own works, Senator HATCH's remarks at conference were ''It's important to note . . . that the compromise is limited to those serious crimes against children and sex crimes and does not broadly apply to other crimes''—and he put in a compromise and said to the Senator from Massachusetts, on the question of having this apply to the children—this makes sense and this is what this compromise will do. This is what this compromise will do. These are the words that our chairman of our Judiciary Committee used:

> It's important to note . . . that the compromise is limited to those serious crimes against children and sex crimes, it does not apply aptly to other crimes.

Page 31—what do you conclude from that? That the amendment he puts in was just as he implied, applied to children. Furthermore:

> It is important to note that the compromise is limited to these serious crimes against children—serious crimes against children and sex crimes does not broadly apply to other crimes. We're not changing the whole system, which I've tried to do, at the urging of not of my friend from Massachusetts, but judges and a number of other people.

Page 37:

> Now, the compromise proposal would simply require judges to sentence these vicious defendants, child criminals, I mean defendants who are committing crimes against children, in accordance with the law—[didn't have to sentence them in accordance with the law]—and not seek to find new areas or new legal justification for reducing the sentences for these defendants without specific authorization for the United States Sentencing Commission.

Do Members of this body believe that when you had a chairman of the Judiciary Committee filing an amendment, which we had not seen, and then give us assurance that that was the scope of that amendment, and then to find out that that was not true and have it apply in a number of other cases—would the members of the Judiciary Committee of the Senate feel that they have been treated fairly? No. The answer is no.

> It is important to note that the compromise—

Here it is again—

is limited to these serious crimes against children and does not broadly apply to other crimes, which is what the Feeney Amendment did.

Now, look, I have to admit I had my own qualms about the totality of the Feeney amendment, and that's why I chatted with the distinguished chairman of the House Judiciary Committee, and that's why I chatted with a lot of others as we, and experts in the field, and I believe we've made a compromise here . . . .

It just goes on.

Then we received the assurances from the chairman of the Judiciary Committee, and—listen to this—Chief Justice Rehnquist is worried about the breadth and scope.

He is not worried about this. Where did he get that information? Where did you get that information, Senator HATCH? That is not an accurate statement. I don't think any Federal judge should worry about which language. They know this language is to protect our children in our society. We are limiting it to that. I am trying to solve this problem.

I could go on. The fact is, in just a cursory examination of that language, we saw that was not the case. In fact, the Hatch amendment went way beyond sex crimes and children. It retained much of the underlying Feeney amendment and dramatically limited departures in all cases and eliminated for all cases departures based on age and physical impairment, gambling dependence, aberrant behavior, family ties, military, and good works.

This is what is still in there. It establishes de novo appellate review of all departures. That applies to every single sentence. It goes to the circuit court. That says to the circuit court judges: You will look not at the trial court; look at the facts and the sentences, but you look to de novo, overturning a unanimous Supreme Court.

It applies to every case, overturning a Supreme Court decision.

It prohibits in all cases downward departures on remands of new grounds. It also chilled the departures in all cases by imposing burdensome reporting requirement on judges who depart from the guidelines. And it directed the Sentencing Commission to amend the guidelines and policy statements ''to ensure that the incidence of downward departures is substantially reduced'' in all cases.

In the departures, in all cases, by imposing burdensome reporting requirements—do you know what the requirements are? They have to tell someone in the Justice Department. Guess who. The Attorney General. Every time you depart from the guidelines, the Attorney General will be notified.

Talk about a blacklist for judges. The Attorney General will know. Do not think that does not send a chill into every judge, to know if he is going to make that kind of judgment, decision, in accordance with the sentencing guidelines, that the Attorney General is going to know why. Obviously, the proponents of the Feeney amendment understood it—in order to chill that—to create a blacklist of judges. And everyone knows that list will be published. That will be made available to the committee. It will be made available in every community where the judges go.

It still applies, not just to children's issues but to all cases—does everyone understand that?—in all cases.

Then it directs the Sentencing Commission to amend the guidelines to ensure that the incidents of downward departures are substantially reduced in all cases, saying, look, we do not like these downward departures, in spite of the fact that 80 percent of them were requested by the Government and in spite of the fact that anytime you have a downward departure, that is sufficient grounds to appeal. If there is a concern, they can appeal that. If it is outside the scope of the sentencing provision, it is remanded. That is the way the system works. That is what we included. If it will be excessive, in terms of downward, there is a remedy: Go to appeals. It has worked pretty well. If not, let's go back and take a look and have a hearing.

But absolutely no—absolutely no.

So then we had spotted those raised, and we had the continued assurances from the chairman of the Judiciary Committee that we did not understand it. We just looked at this quickly and did not have a real grasp of it. This was all done in a period of about 45 or 50 minutes. We did not really understand it.

The way I have described it is the way it is. This is what happened later. At 1:30 on Wednesday morning, more than 8 hours after Chairman SENSENBRENNER adjourned the conference, Senator HATCH's office distributed a new, revised version of the Hatch substitute to the Feeney amendment. At that hour, my staff was trying to figure out what exactly was in the old Hatch substitute. It appears, after having debated the Feeney amendment, the Hatch so-called compromise amendment, my secondary amendment after having voted on the items in the final conference report, the Republican conferees decided to change a substantial portion of that conference report and then file it as a technical amendment without reconvening the conference, to have the Members vote on the new language. This procedure was, to say the least, unorthodox.

At 1:30 in the morning, the revisioners describe it as a ''technical change . . . made at the request of a democratic Senator.'' No mention of by whom the request was made. Unless the request was for only minor changing, it was not fulfilled.

At 1:34, the revision did not limit the Hatch amendment to serious crimes against children. To the contrary, like the amendment before it and the Feeney amendment before, the 1:34 revision broadly limits judicial departures in no-child and non-sex cases in many ways.

It overturns the Koon case by establishing the de novo standard for appellate review for all cases—still in there.

It still directs the Sentencing Commission to amend the guidelines and policy statements ''to ensure that the incidence of downward departures are substantially reduced.''

It still chills departures by imposing the burdensome reporting requirements.

It is true that at 1:34 the revision improved the bill by limiting restrictions on enumerated departure grounds to child and sex cases only. And it strikes the early text limiting military service departures. But the very idea that the Feeney amendment and the first Hatch amendment limited military service departures in this time of war shows how poorly considered the entire legislation has been.

The modest changes made in the 1:34 revision do not ameliorate the devastating impact the Hatch amendment will have on our system of criminal justice. They do not conform the amendment to the representations made by Senator HATCH at our conference meeting. They do not excuse the travesty of a process that has led to this provision being inserted into a conference that was meant to deal with the AMBER alert bill and other provisions involving the protection of children.

In reality, the Hatch amendment had nothing to do with the protecting of children and everything to do with handcuffing judges, eliminating fairness in the Federal sentencing system. That is what the Chief Justice of the United States believes.

Our belief is that if there are changes that are necessary—and there may very well be—we ought to have those changes made in an area of the criminal justice system. If we have to change them in order to deal with terrorism, let's do it. But to do this now, to represent the changes only applied to the children and not to the other parts of the provision, is not accurate and is a serious misrepresentation of what we are doing.

I have been assured that there are provisions in this legislation that go far beyond even the conference itself. It is interesting, we established seven members of the Sentencing Commission, and we say not fewer than three judges will be members of the Sentencing Commission. That has changed, to be not more than three judges.

The idea that we have seen the number of judges who have served on the Sentencing Commission, all of whom have been approved with the advice and consent of the Senate and have been approved—the idea in the early days of the Sentencing Commission was to bring more judges in to bring greater confidence and get their involvement in the drafting of the sentencing guidelines. That was the purpose. Now they complain about the guidelines and say no more than three judges; so it will never be more than three judges. There will always be more on the outside than judges in the drafting of the sentencing.

That was all put in at conference. If someone can show where that was in the Senate bill or the House bill—it was not there. It has important implications in terms of the makeup and the guidance in terms of the sentencing. But we found that out just in reading through the process. No justification. No explanation.

Finally, all Members can understand action here in the Senate at the times of enormous kinds of passion, when we see the circumstances of children who are abducted and what has happened to them—one cannot help but to understand that the feeling of the parents and Members is to just throw the book out and go to it. That would have been something, if the House of Representatives had done that when the facts were there last fall—then it would have been something that could have been done in January—but they did not. They waited all this time. And then, they have not only taken those actions in terms of enhanced penalties against the child abductors, all of which I was glad to support—I would have supported it, and would support it still, not the other provisions that have been included in it—but if he is truly committed to protecting the children and upholding the fairness, I would have hoped we could have at least restricted those provisions to the sentencing that applied on those circumstances, but they did not.

That is why we are caught, all of us here, in the situation where we are sufficiently concerned about the dangers that are out there in terms of the abduction of children and conflicted with the kinds of violence we are doing to the Sentencing Commission.

It is a lousy way to legislate, Mr. Chairman, and I deplore that we are in this circumstance. But we will just have to see what steps are available to us in the remaining time.

Mr. President, I would like to address the question of a judge's authority to depart from the guidelines.

While this legislation alters the grounds on which a judge may depart in certain child-related cases, it does not alter the basic legal authority of a district court to department from the guidelines under 18 U.S.C. 3553 in other cases. Judges retain ultimate authority to impose a just sentence within statutory limits, and today we reaffirm that departures are an important and necessary part of that authority.

As one of the authors of the Sentencing Reform Act, I can say that Congress did not intend to eliminate judicial discretion. We recognized that the circumstances that may warrant departure from the guideline range cannot, by their very nature, be comprehensively listed or analyzed in advance. In interpreting the Act, both the Supreme Court and the Sentencing Commission have emphasized this point. This is not a partisan position. Judicial authority to exercise discretion when imposing a sentence was and is an integral part of the structure of the Federal sentencing guidelines and indeed of every guideline system in use today. In the eloquent words of Justice Kennedy, when he wrote for a unanimous Supreme Court to uphold the district court's authority to depart downward in Koon:

> The goal of the Sentencing Guidelines is, of course, to reduce unjustified disparities and so reach toward the evenhandedness and neutrality that are the distinguishing marks of any principled system of justice. In this respect, the Guidelines provide uniformity, predictability, and a degree of detachment lacking in our earlier system. This, too, must be remembered, however. It has been uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue. We do not understand it to have been the congressional purpose to withdraw all sentencing discretion from the United States district judge.

According to *Koon* v. *United States*, 518 U.S. 81, 113 (1996).

In Koon, the Supreme Court held that a sentencing judge may depart based on a factor identified by the Sentencing Commission, or even based upon a factor discouraged by the Commission, as long as the discouraged factor nonetheless justifies departure because it is present in some unusual or exceptional way. Similarly, a sentencing judge may always depart when a factor, unmentioned in the guidelines, takes the case outside the heartland of cases covered by the guidelines.

I do not agree that there is an epidemic of leniency in the Federal criminal justice system. I do not regard the current rate of non-substantial assistance departures as excessive. There is no such thing as an excessive departure rate—the question is whether any particular departure is warranted or unwarranted. That is a question for appellate courts, not Congress. One of the reforms embodied in the Sentencing Reform Act was the appealability of sentences. The government was given the power to appeal downward departures under the act. Were downward departures ''excessive'' presumably the government would have brought more appeals than it has.

The Sentencing Reform Act recognized that departures are a healthy and necessary component of a just guideline system. In 2001, when we exclude those districts with departure policies designed to address the high volume of immigration caseloads, the non-substantial assistance departure rate is merely 10.2 percent. This reflects the proper exercise of judicial discretion, by Article III judges, who have been appointed by presidents of the United States and confirmed by the Senate, in conformance with the mandate that Congress gave them in 18 U.S.C. §3553(b).

Indeed, the vast majority of downward departures granted by judges today are those sought by the government, most to reward substantial assistance in the prosecution of crime. And, while departures have increased somewhat of late, government initiated departures lead the rising departure rate.

I am gratified that the concerns voiced by the Federal Judicial Conference, the American Bar Association, and others concerning the high rate of downward departures requested by prosecutors have been recognized in the version of the Feeney Amendment approved by the conference committee. The bill now requires that the Sentencing Commission:

> . . . review the grounds of downward departure that are authorized by the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission; and promulgate, pursuant to section 994 of title 28, United States Code (A) appropriate amendments to the sentencing guidelines, policy statements, and official commentary to ensure that the incidence of downward departures are substantially reduced.

I welcome this call for a thorough and impartial review of all downward departures, whether requested by the prosecution or the defense. Only a review embracing all downward departures will provide the Commission the information necessary to fulfill the mandate of this legislation.

A district court may depart from a guideline range whenever the unusual circumstances or combination of circumstance of a case take it outside of the ''heartland'' of cases covered by the relevant guideline. Other than in certain child-related cases, this legislation does not limit or lessen the myriad potential grounds for departure currently available to district courts in making sentencing decisions nor is it intended to discourage departure decisions when the unusual circumstances of a case justify a sentence outside the recommended range. It also is not intended to transfer authority over sentencing decisions from judges to prosecutors.

In that light, I must express my deep concern for the provision of the legislation that requires the Commission to report to the Judiciary Committees of the Congress and even to the Attorney General confidential court records and even ''the identity of the sentencing judge.'' I do not believe that this provision serves any legitimate interests of the Congress. I do not believe that authorizing disclosure of this information to the executive branch is warranted. I have deep concerns that this provision lacks the respect owed by the Congress to a co-equal branch.

I remain convinced that his legislation is flawed and results from a hasty and unreliable process that ill serves us. It is my view that the directive to the Commission ''to promulgate . . amendments . . . to ensure that the incidence of downward departures are substantially reduced'' is inappropriate. It puts the cart before the horse and is based on faulty numbers of the incidence of departures that have been relied upon by some proponents of the legislation. The better course would be for the Commission to study and report on the question. Because the Feeney amendment was presented without discussion or debate and at the last possible moment, Congress was deprived of balanced and full information concerning the issue of whether departure decisions are made in inappropriate instances. Even without the opportunity to respond in detail to the amendment, the Commission did produce statistics and information that refute the reliability and credibility of the information used in promoting the notion that departures decisions are made too frequently or inappropriately. Indeed, a fact that was withheld by proponents of the amendment, close to 90 percent of departure decisions are made at the request of or with the support of the government and that number may be even higher.

For these reasons, I hope and expect that this legislation will not unduly restrict departures or impede the appropriate development of guideline departure common law. And we need to review the entire system in light of these changes to make sure that we are letting judges carry out their responsibility to impose just and responsible sentences.

I ask unanimous consent that the following letters in opposition to the proposal be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPREME COURT OF THE UNITED STATES,
*Washington, DC.*

Hon. PATRICK LEAHY,
*U.S. Senator, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR LEAHY: I am responding to your letter of March 31, 2003, that requested the views of the Judicial Conference of the United States on a number of specific provisions of a sentencing-related amendment to H.R. 1104. By now you will have received Ralph Mecham's letter, dated April 3, which was sent to other Judiciary Committee members as well, expressing the concerns of the judiciary about the amendment. More specifically, the Judicial Conference:

1. Opposes legislation that would eliminate the courts' authority to depart downward in appropriate situations unless the grounds relied upon are specifically identified by the Sentencing Commission as permissible for the departure.

2. Consistent with the prior Judicial Conference position on congressionally mandated guideline amendments, opposes legislation that directly amends the sentencing guidelines, and suggests that, in lieu of mandated amendments, Congress should instruct the Sentencing Commission to study suggested changes to particular guidelines and to report to Congress if it determines not to make the recommended changes.

3. Opposes legislation that would alter the standard of review in 18 U.S.C. §3742(c) from ''due deference'' regarding a sentencing judge's application of the guidelines to the facts of a case to a ''de novo'' standard of review.

4. Opposes any amendment to 28 U.S.C. §994(w) that would impose specific record keeping and reporting requirements on federal courts in all criminal cases or that would require the Sentencing Commission to disclose confidential court records to the Judiciary Committees upon request.

5. Urges Congress that, if it determines to pursue legislation in this area notwithstanding the Judicial Conference's opposition, it do so only after the Judicial Conference, the Sentencing Commission, and the Senate have had an opportunity to consider more carefully the facts about downward departures and the implications of making such a significant change to the sentencing guideline system.

I believe these Conference positions respond to most of the questions posed in your letter. Please note, however, that the Conference did not specifically oppose the provisions mentioned in your third and fourth questions. These provisions would amend U.S.S.G. §3E1.1 and promulgate new policy statement U.S.S.G §2K2.23. The Conference considered these provisions in adopting its opposition to direct congressional amendments of the sentencing guidelines. The Conference did not take positions on the provisions noted in your seventh and eighth questions. These would primarily affect the Department of Justice.

As stated in the April 3 letter, the Judicial Conference believes that this legislation, if enacted, would do serious harm to the basic structure of the sentencing guideline system and would seriously impair the ability of courts to impose just and responsible sentences. Before such legislation is enacted there should, at least, be a thorough and dispassionate inquiry into the consequences of such action.

Sincerely,
WILLIAM H. REHNQUIST.

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JUDICIAL CONFERENCE OF THE UNITED STATES,
*Washington, DC, April 3, 2003.*

Hon. ORRIN G. HATCH,
*Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: This provides the views of the Judicial Conference of the United States with regard to Section 109 (''Sentencing Reform'') of S. 151, the ''Child Abduction Prevention Act,'' as passed by the House of Representatives on March 27, 2003. The Judicial Conference strongly opposes several of these sentencing provisions because they undermine the basic structure of the sentencing system and impair the ability of courts to impose just and responsible sentences.

At the outset, we must note our concern and disappointment with the lack of careful review and consideration that this proposal has received. While it constitutes one of the most fundamental changes to the basic structure of sentencing in the federal criminal justice system in nearly two decades, the review by Congress to date consists of a hearing at the subcommittee level in the House of Representatives on only part of Section 109 and limited debate on an amendment on the House floor. The Senate has held no hearings on this legislation at all. Neither the Judicial Conference nor the Sentencing Commission has been given a fair opportunity to consider and comment on this proposal. In our opinion, provisions that would have a significant impact on the administration of criminal justice should not be resolved without careful study and deliberation. The risk of unintended consequences should not be taken on such an important matter.

Section 109(a) of this bill would amend 18 U.S.C. §3553(b) to restrict courts' authority to depart downward from the sentencing guideline range to those situations specifically identified by the Sentencing Commission as grounds for downward departures. The Sentencing Reform Act of 1984 created a system of prescriptive sentencing, but Congress wisely recognized that any system that provides for sentencing based upon fixed sentencing factors should include a means to impose a just and responsible sentence on the rare defendant whose offense is not addressed by those sentencing factors. The means chosen was to allow for either upward or downward departures if the court finds ''an aggravating or mitigating circumstance of a kind, or to a degree, not adequately considered by the Sentencing Commission.'' This system recognizes that a court should possess the authority to consider unforseen circumstances it deems relevant to sentencing determinations, and we urge the current system be retained.

Sections 109(b), (g) and (i) make specific changes to existing sentencing guidelines to among other things, restrict the bases for downward departures. The Judicial Conference opposes direct congressional amendment of the sentencing guidelines because such amendments undermine the basic premise in establishment of the Commission—that an independent body of experts appointed by the President and confirmed by the Senate is best suited to develop and refine sentencing guidelines. We recommend instead that the Sentencing Commission be directed by Congress to study the amendment of any particular guideline and either adjust the guideline or report to Congress the basis for its contrary decision.

Section 109(d) would alter the standard of appellate court review of departure decisions from ''due deference'' regarding a sentencing judge's application of the guidelines to a ''de novo'' standard of review. In *Koon* v. *United States*, 518 U.S. 81 (1996), the Supreme Court interpreted the ''due deference'' standard to require appellate courts to review district court departure decisions for abuse of discretion. The Judicial Conference opposes rescission of the current standard, which recognizes that district judges are better positioned to decide departures, and the substitution of de novo review, which would not adequately guide courts in subsequent departure cases that, by their very nature, are not amenable to useful generalization.

Section 109(h) would amend 28 U.S.C. §994(w) to require the chief judge of each district to assure that certain sentencing records, including the judgment, statement of reasons plea agreement, indictment or information, and presentence report, are forwarded to the Sentencing Commission. Current law, by contrast, requires the sentencing court or other officer to transmit to the Sentencing Commission a ''written report of the sentence'' and other information as determined by the Sentencing Commission, recognizing that the Commission is best able to determine the information it needs to fulfill its statutory responsibilities. We oppose this additional burden upon the courts.

This section would further require the Commission, upon request, to provide these newly specified documents to the Senate and House Judiciary Committees. This provision raises two serious concerns. First, presentence reports are retained within the control of the courts and the Department of Justice in order to protect the safety and privacy of individuals identified in the course of criminal prosecutions and sentencings. In the absence of strict accommodations to protect this sensitive information, we believe this practice should be retained. Second, we oppose the systematic dissemination outside the court system of judge-identifying information in criminal case files. The Sentencing Commission compiles and releases annually comprehensive statistics on all federal sentences. Among other things, this data provides for each court the percentage of defendants who receive substantial assistance departures and the percentage of defendants who receive other downward departures. We urge Congress to meet its responsibility to oversee the functioning of the criminal justice system through use of this and other information without subjecting individual judges to the risk of unfair criticism in isolated cases where the record may not fully reflect the events leading up to and informing the judge's decision in a particular case.

In the event that Congress determines to go forward with this legislation, we urge that, at the least, the Judiciary Committees await the results of ongoing studies into downward departures being conducted by the Sentencing Commission and the General Accounting Office. To underline this point, an Associate Deputy Attorney General testified to a House Judiciary subcommittee why the ''disturbing trend'' in downward departures in non-immigration cases on grounds other than substantial assistance to the government justified ''long overdue reform'' in sentencing procedures. The Department of Justice statement cited statistics to prove this point; that is, these downward departures rose from 9.6 percent of cases in FY 1996 to 14.7 percent of cases in 2001. The fact is that there were 5,825 more non-substantial assistance downward departures in FY 2001 than in FY 1996. Of the increase, 4,057 occurred in the five southwest ''border court'' districts and 1,755 occurred in the other 89 United States district courts. In other words, the ''border'' districts accounted for almost 70 percent of the increase. The ''disturbing trend'' is not a national trend, but one more vivid measure of the crisis in the administration of criminal justice on the border. S. 151 recognizes that high downward departures in the border courts are a special circumstance and cannot be eliminated. By no means do ''border court'' problems and statistics support the elimination of this type of downward departures in all other district courts.

It is also important to note that, popular conceptions notwithstanding, the fact that a defendant is granted a ''downward departures'' does not mean that the defendant was not punished adequately for the crime. Eight-five percent of defendants granted non-substantial assistance departures in FY 2001 were sentenced to prison.

Finally, we strongly recommend that, after the data on downward departures is compiled and analyzed, hearings be held so that the views of the various entities with interest in federal criminal sentencing can be carefully considered with regard to the ramifications of his proposal. Congress should not alter the sensitive structure of the sentencing system without reasonable certainty as to the consequences of such legislation.

We appreciate your consideration of the views of the Judicial Conference on this significant legislation. If you have any questions regarding these views, please do not hesitate to contact me at 202/273–3000. If you prefer, you may have your staff contact Michael W. Blommer of the Office of Legislative Affairs at 202/502–1700.

Sincerely,

LEONIDAS RALPH MECHAM,
*Secretary*.

U.S. SENTENCING COMMISSION,
*Washington, DC, April 2, 2003.*

Subject: S. 151/H.R. 1104, the ''Child Abduction Prevention Act.''

Hon. ORRIN HATCH,
*Chairman, Senate Committee on the Judiciary, Hart Office Building, Washington, DC.*

Hon. PATRICK LEAHY,
*Ranking Member, Senate Committee on the Judiciary, Dirksen Office Building, Washington, DC.*

DEAR SENATORS HATCH AND LEAHY: We, the voting members of the United States Sentencing Commission, join in expressing our concerns over the amendment entitled ''Sentencing Reform'' recently attached to the Child Abduction Prevention Act of 2003, H.R. 1104, 108th Cong. (2003) (hereinafter ''H.R. 1104''). In the past, with an issue of such magnitude, Congress has directed that the Commission conduct a review and analysis which would be incorporated in a report back to Congress. The Commission is uniquely qualified to serve Congress by conducting such studies due to its ability to analyze its vast database, obtain the views and comments of the various segments of the federal criminal justice community, review the academic literature, and report back to Congress in a timely manner. Indeed, such a process is contemplated by the original legislation which established the Commission over 15 years ago. *See* 28 U.S.C. §994(o).

It is the Commission's understanding that the impetus for this proposed amendment to H.R. 1104 was congressional concern over the increasing rate of departures from guideline sentences for reasons other than substantial assistance. We share this concern. In fact, the Commission is undertaking an expansive review and analysis of all non-substantial assistance departures. That work has already yielded important preliminary data.

Based on this preliminary data, it appears that there are a number of factors that need to be examined and understood before drawing conclusions on the non-substantial assistance departure rate. One such factor is the impact on the non-substantial assistance departure rate resulting from policies implemented in a number of districts in an effort to deal with high volume immigration caseloads. For example, in 2001, the overall non-substantial assistance departure rate was 18.3 percent. If those districts with departure policies crafted to address these high volume immigration caseloads are filtered out, the non-substantial assistance departure rate is reduced to 10.2 percent.

In addition to the impact of the problems unique to districts with high volume immigration caseloads, other factors deserve analysis:

(1) the impact, if any, of departures for reasons other than substantial assistance that are the subject of plea agreements and the extent of judicial oversight of such plea agreements;

(2) the extent to which courts depart for reasons identified by the Sentencing Commission and specified in the guidelines as compared to factors unmentioned in the guidelines;

(3) the extent, if at all, of disparity in departures within circuits and districts and whether such disparities may be unwarranted;

(4) the advisability of creating different grounds for upward and downward departures;

(5) the extent of appeals of departures; and

(6) whether there are particular offense types that reflect unwarranted rates of departure.

When Congress created the Sentencing Commission as part of the Sentencing Reform Act of 1984, it did so with the idea that the Sentencing Commission would establish policies that would provide certainty and fairness in sentencing and would avoid unwarranted sentencing disparities among defendants. See 28 U.S.C. §991(b)(1). Congress also recognized, however, that guideline sentences would not fit all cases and instructed the Commission to maintain sufficient flexibility in the drafting of guidelines to permit individualized sentences when warranted by mitigating or aggravating factors not otherwise taken into account. See 28 U.S.C. §991(b)(1)(B). Based on this congressional policy, the Commission developed the concept of permitting courts to depart either upwards or downwards in unusual or atypical cases that fell outside the ''heartland'' of a particular guideline. The Commission adopted the departure policy not only to carry out congressional intent but also in recognition of the limits of adopting a perfect guideline system that would address all human conduct that might be relevant to a sentencing decision. Such a policy also was important in order to give feedback to the Commission as to whether a particular guideline should be reexamined because of an unusually high upward or downward departure rate. These departures have developed over time and have been adjusted throughout the history of the guidelines with the benefit of input from Congress, the federal criminal justice community, and considerable sentencing data.

We would note that there are numerous non-substantial assistance departures, both upward and downward, that appear in other than Chapter Five of the Guidelines Manual. The proposed amendment to H.R. 1104 deletes many of these departure provisions. For example, Chapter Four provides for a departure if the court finds that a defendant's criminal history category significantly either under- or over-represents the seriousness of a defendant's criminal history. See USSG §4A1.3. Similarly, USSG §2B1.1 in Chapter Two provides for a departure either up or down if the court determines that the offense level, which is primarily determined by the amount of the loss, either substantially under- or over-states the seriousness of the offense. Were the proposed amendment to be adopted, it would bar a court from downwardly departing in an appropriate case in each of the above examples.

The amendments being proposed in this legislation change not only departure guideline policy, but also alter the traditional way in which guideline revisions are implemented. The Commission would respectfully suggest that in order for the Commission to fulfill its statutory purposes as well as be of assistance to Congress in addressing its concern with respect to increased departure rates—a concern which the Commission shares—Congress might instead direct the Commission to review departures, recommend changes where appropriate, and then report back to Congress within 180 days. Such an approach would be in accordance with the procedure set forth by Congress when it established the Commission as well as with historical precedent. See 28 U.S.C. §994(o).

Thank you for your consideration of our concerns.

Sincerely,

DIANA E. MURPHY,
*Chair*.
RUBEN CASTILLO,
*Vice Chair*.
JOHN R. STEER,
*Vice Chair*.
WILLIAM K. SESSIONS, III,
*Vice Chair*.
MICHAEL O'NEILL,
*Commissioner*.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Utah.

Mr. HATCH. Mr. President, I don't know anybody on the Senate floor who can roar better than my ''lion'' friend from Massachusetts. He is a great Senator. And he certainly feels very deeply on this issue. Apparently I have irritated him, and I feel sorry about that, but he is totally wrong in what he says. I can see why he might feel that way.

Now, let me just say this, that I believe the letters that he was referring to, with regard to the courts of this country complaining about this, were before the compromise we enacted in this particular conference report. I got a lot of complaints, too. That is why I tried to make the change and worked it out with Chairman SENSENBRENNER and others in the House who were not very happy to make the change.

My friend called and said: Can you do something in this area? I said I would try, which I did. And we came up with the Hatch-Graham-Sensenbrenner amendment. I apologize for my voice, but I have semi-laryngitis. But we came up with the Hatch-Graham-Sensenbrenner amendment, which I believed moved this in the right direction and I thought would please my friend from Massachusetts, but it did not.

Now, it needs to be pointed out that this is a bipartisan conference report. On the Senate side, we voted for this report 5 to 2, meaning it was bipartisan. On the House side, they voted in larger numbers for this report.

I have to mention that neither the distinguished Senator from Massachusetts nor the distinguished Senator from Vermont signed the conference report, so they did not agree with it. And I understand that they are upset about the language in the report. I cannot help that.

But we are talking about only 2 percent of the cases that are affected by this departure language—only 2 percent of all the cases. I thought I did a pretty good job in getting it done.

I have to mention one other thing: the distinguished Senator from Massachusetts talking about a blacklist for judges, because he claims that these reports have to be sent to the Attorney General.

Well, remember, sometimes Attorneys General are Republican and sometimes they are Democrat. I think most Attorneys General really try to do a good job. I know the current one is trying to do his best job against crime in this society. The current Attorney General approved and was for the original Feeney language—which we changed—and so were many Members of the House. They were not happy with this change.

Let me just make some points here that are important. It is not surprising that the American Civil Liberties Union, the Federal Public Defenders, the American Bar Association, and the Judicial Conference have opposed the Feeney amendment.

One seriously wonders what would have been heard from the ABA, the ACLU, the Leadership Conference on Civil Rights, and others if upward departures—in other words, making it tougher on crime—had grown at the absurd and dizzying rates that downward departures have.

Can anyone seriously believe that they would have been asking for more time to study this issue if upward departures had gone out of control, like these downward departures, that are skyrocketing?

So everybody in our country understands, we have judges on the bench—not many, but enough—who, in these child molestation, child degradation, and child pornography cases—these children's criminal cases—who are continually reducing the sentences recommended by the Sentencing Commission for these criminals who are hurting our children.

Look at this chart. Since 1991, when there were 1,241 downward departures—or lesser sentences for these types of people—we are now up to 4,098 in 2001. And I am sure it was much higher for 2002 and that for 2003 it will be much higher.

Can anyone seriously believe that these liberal groups would be asking for more time to study this issue, as is being asked for here? I suspect there would be a loud, steady drumbeat for swift legislative action by Congress to stop such an outrage—not more time for the Sentencing Commission to study the issue—that is, if the upward departures, in other words, the tougher on crime departures, were followed by the courts. Well, that isn't the case. These are downward departures, making it easier on these pedophiles, sex criminals, child rapists, child pornographers.

I further suspect that these groups would not have waited as long and as patiently as we have in watching downward departures increase steadily year after year, making it easy on criminals who do these types of things to our children.

Additionally, I am not surprised the Judicial Conference is opposed to this amendment, if it is.

It is important to note, however, the compromise is limited to these serious crimes against children and sex crimes. But because the problem of downward departures is acute across the board, the compromise proposal would direct the Sentencing Commission to timely conduct a thorough study of these issues, develop concrete measures to prevent and limit this abuse—this abuse of downward departures, making it easy on child molesters—and report these matters back to Congress.

In fact, to place this matter in historical context, in debate on the Sentencing Reform Act, the distinguished Senator from Massachusetts observed, with respect to the Judicial Conference and sentencing disparity, the following:

> With all due respect to the Judicial Conference, the judges themselves have not been willing to face this issue and to make recommendations and to try and remedy this situation.

He acknowledges that some judges are out of control on these issues. And I think this chart shows they are out of control in children's cases, and it is time to stop it. That is what this bill does.

Along these lines, consider the following disparity, demonstrating the increasing undermining of the sentencing guidelines by some of these judges. The average downward departure rate for nonsubstantial assistance cases in the Fourth Circuit is 5.2 percent, while in the Tenth Circuit it is 23.3 percent. The average downward departure rates are making for easier sentences for these sex criminals. It is this type of sentencing disparity that risks turning our criminal justice system of sentencing into—to borrow yet another phrase from Senator KENNEDY on this issue—''a system of roulette.''

I urge support for this conference bill. It squarely increases punishment for child-related crimes and ensures that those who commit these crimes are incarcerated accordingly. And it says the game is over for judges: You will have some departure guidelines from the Sentencing Commission, but you are not going to go beyond those, and you are not going to go on doing what is happening in our society today on children's crimes, no matter how softhearted you are. That is what we are trying to do here. We are tired of it. I am tired of having children abused. This bill will go a long way toward stopping that kind of abuse.

Let me talk about departure rates and the amounts for child-related crimes. The conference report addresses the glaring penalty gaps that exist in the sentencing guidelines. The bill represents a compromise from various points of view. I did my best to try to get a compromise that I hoped my colleagues on the other side would be happy with.

They are not, some of them. But I have to say that the distinguished Senator from Delaware was. He voted with us on this conference report, as he should have. I believe others on the committee should have also. For instance, there was one view that believed all downward departures should be banned, all of them. That was a view by some. The Feeney amendment, approved in the House before conference, moderated that view by merely limiting departures. I cosponsored an amendment in the conference with Chairman SENSENBRENNER and Senator GRAHAM that we have been talking about that went even further by limiting departures related to crimes victimizing children. This bill puts a stop to the very troubling practice of certain trial courts which depart from the sentencing guidelines in crimes involving children and sex crimes.

The following very troubling statistics related to child crimes demonstrate why this is necessary. According to the Sentencing Commission's 2001 Sourcebook of Federal Sentencing Statistics, trial courts reduce the sentence of those convicted of sexual abuse of children from the guidelines over 16 percent of the time. Think of it. Why do we have these sentencing rules to begin with if they are not going to be followed, especially in these children's cases?

On average, child courts reduce the sentences of those convicted of sexual abuse by an astonishing 63 percent from the guideline range. I would think my colleagues would want to put a stop to that kind of inappropriate decisionmaking by some judges. For those convicted of pornography and/or prostitution-related offenses, trial courts departed from the recommended guidelines over 18 percent of the time, reducing these defendants' sentences by a staggering 66 percent. Think about it. We are going to let that continue just because some of these groups don't like it or want to be more compassionate towards these criminals? This many departures and this amount of sentencing reductions are astounding given the trauma inflicted on victims of these particular types of offenses, and require us in Congress to step in and ensure the sentences in these areas remain uniform and consistent with national expectations.

Let me add an overall perspective to this compromise. The compromise agreed to in conference will affect only crimes against children and sex crimes; that is, sexual abuse, pornography, prostitution, and kidnapping/hostage taking. These types of cases represent only 2 percent of the Federal criminal caseload. This is only 2 percent of the cases that would have been affected by the original Feeney amendment—they all would have been affected by the original Feeney amendment—and only 2 percent of the cases that would have been affected by the version that passed the House by an overwhelming 357 to 58 vote. And we have complaints about this?

Hopefully in the future the Sentencing Commission will more closely monitor these types of disparities and will step in to fix these problems in a timely manner. However, when they do not, it is incumbent upon the Congress to do so. That is precisely what this bill does. We say in this bill: We are sick of this, judges. You are not going to do this anymore except within the guidelines set by the Sentencing Commission. There will be downward departures, but they will meet the guidelines and not just be off-of-the-top departures like the 190 pound man, five feet 11, almost six feet tall, who had committed a child crime and got reduced 400 percent or more.

It is absurd to suggest the Sentencing Commission should be given time to study this issue. The Sentencing Commission has been aware that Congress was greatly concerned about this problem since the year 2000, even before then. Indeed, these very issues were squarely raised with the Sentencing Commission during the Senate hearing in October 2000. Both Senators Thurmond and SESSIONS directed many questions at the commissioners and others about their concerns that trial judges systematically undermine the sentencing guidelines by creating new reasons to reduce these sentences.

Indeed, Senator SESSIONS expressed his concerns about the troubling trend of departures based on novel and creative reasons directly to the chair of the Sentencing Commission.

Senators Thurmond and SESSIONS were assured the Sentencing Commission intended to address this issue by including it in a larger report due November 2002, addressing how well the guidelines were accomplishing the statutory purposes of sentencing. It is now 6 months beyond the due date, and no such report has been produced. In fact, the Sentencing Commission announced just this past March it has completed portions of the report on cocaine sentencing and surveys related to Federal judges.

However, as to the departure issues raised at the Senate hearing, the Sentencing Commission continues to study the issue, 2 years, 3 years later. It is apparent this issue, while an obvious priority to the Congress, is simply not a priority to the Sentencing Commission. And we have done something about it in this conference report that has bipartisan support. After having decided we can no longer be held hostage to the schedule set to study this issue by the Sentencing Commission, only to watch it unilaterally change, action is now even more necessary.

It has now been over 2 years since Congress highlighted this problem in an oversight hearing. Further delay would effectively abdicate our responsibilities as legislators and politically accountable members of our society, something the Sentencing Commission and the ACLU and the ABA and other groups are not.

With regard to the Hatch-Sensenbrenner-Graham compromise amendment, this amendment limits, but does not prevent, downward departures only to enumerated factors for crimes against children in sex offenses including, one, kidnapping; two, kidnapping involving a minor victim; two, sex trafficking of children; three, sexual abuse crimes; four, sexual exploitation and other abuse of children; five, transportation for illegal sexual activity and related crimes; and, six, obscenity. Changes in the standard for review of sentencing matters for all cases in Federal courts to a de novo review while factual determinations would continue to be subjected to ''a clearly erroneous'' standard.

We require the courts to give specific and written reasons for any departure from the guidelines. That is a logical thing to do. We require the judges to report sentencing decisions to the Sentencing Commission. They don't like that because that means more work. I have to confess, I sympathize somewhat with these judges because they are being paid less than a number of law review graduates in their first year in private practice. The fact they don't want to increase their workload, I don't blame them for that. But it seems to me in this case, it is certainly justified.

Contrary to the oft repeated claims of the opponents, the compromise proposal is not a mandatory minimum. Judges handling these important criminal cases can sometimes exercise discretion to depart downward, but only when the Sentencing Commission specifies the factors that warrant a downward departure, only when they have the right to do so as listed by the Sentencing Commission. That seems to me just a gimmick. Yet we have had all this fuss and bother over this.

Requiring de novo review of a trial judge's application of the facts to the law is totally reasonable. This is the same standard that applies to appellate review of critical motions to suppress physical or testimonial evidence. There is no reason for appellate judges to give deference to the trial judge in such questions of law.

Even after my compromise amendment, the trial judge's factual determinations would still be subject to great deference under a ''clearly erroneous'' standard. If a discretionary downward departure is justifiable, it is difficult to understand why anyone would be opposed to the appellate court's reviewing them under the same standard that applies to other important areas of law.

I hope my colleagues are not obstructing this bill, because they are upset they didn't get their way in the conference—when, in fact, they were defeated 5 to 2 on these issues. To suggest the conference report suffers from a procedural flaw, I think, is going way too far. They argue, incredibly, that the Hatch-Sensenbrenner-Graham amendment to the Feeney amendment to the House bill was improperly modified in conference. That is simply ridiculous and we all know it. What occurred was straightforward.

In response to Democratic concerns raised about the drafting of the Hatch-Sensenbrenner-Graham amendment to the conference report, we made a number of technical changes to comport with Democratic Senator BIDEN's understanding of the amendment, as well as concerns raised by a Congressman during the conference, as to the meaning of one particular provision. In good faith, my staff addressed these technical drafting issues and made certain revisions to comport with these Democratic suggestions.

Senator BIDEN was right. I agreed with these changes. Senator BIDEN agreed with these changes as well. He voted for the conference report. Keep in mind these changes had the effect of cutting back on the restrictions contained in the Feeney amendment as it applies to sentencing decisions by judges to ensure that the restrictions apply only in a limited category of cases. In the end, Democratic members to the conference report—Senator BIDEN and Representatives FROST, HINOJOSA, and MATHESON—all supported the conference report.

For some Democratic members to now complain about the process is simply unfair, and I question those positions. I would like to refer to the transcript my colleague was referring to because he believes I represented one thing when in fact I meant another.

Let me start with line 759:

Chairman HATCH. The proposed amendment would, and I hope my colleague from Massachusetts will listen carefully to this—Ted, if I could get you to listen to this.

Senator KENNEDY. Yes.

Chairman HATCH. Because, hopefully, this will help some of your concerns.

The proposed amendment would limit, but not prevent, downward departures only to enumerated factors for crimes against children and sex offenses, including: one, kidnapping at Section 1201; two, sex trafficking of children, Section 1591; three, sexual abuse crimes, Chapter 109(a); four, sexual exploitation and other abuse of children, Chapter 110; and five, transportation for illegal sexual activity and related crimes. That's Chapter 117, and also Chapter 71, dealing with obscenity, I've been informed.

It will change the standard for review of sentencing matters for appellate courts to a de novo review, while factual determinations would continue to be subject to the ''clearly erroneous'' standard.

It would require courts to give specific and written reasons for any departure from the guidelines.

It will require judges to report sentencing decisions to the Sentencing Commission.

The Sentencing Reform Act of 1984 was designed, as Congress wrote in the text of that bill, ''to provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct.''

Now, while the United States Sentencing Commission promulgated sentencing guidelines to meet this laudable goal, courts have strayed further and further from this system of fair and consistent sentencing over the past decade.

The rate of discretionary downward departures, excluding downward departures for defendants' cooperation, has increased virtually every year since 1991.

But now Chairman SENSENBRENNER—and I don't know whether the Senator from Massachusetts was there at the time; maybe he was not there. Chairman SENSENBRENNER made it very clear. He said:

Now there are several other issues that I think have got to be addressed. First of all, with respect to the standards of appellate review, that applies to all cases and it is a de novo review.

That is what we understood.

This is in direct response to the Supreme Court's decision in the case of Koon v. United States. Now, you may recall this involved a conviction for a civil rights violation of one of the police officers accused of beating up Rodney King, which we all saw on TV.

The point is, I think everybody else there recognized what the Hatch-Sensenbrenner-Graham amendment was meant to be. I feel badly that my colleague feels like he was misled, because I don't think I misled him. I think the language I just read shows I didn't. I acknowledge and I express sorrow that he feels the way he does. I feel badly he feels the way he does because I would never deliberately mislead a colleague under any circumstances. I might make a mistake or forget something I might have said earlier, or something like that, but I would never deliberately mislead a colleague. I certainly didn't in this case. I don't think anybody there understood it the way it is being seen through the eyes of some on the other side.

I think to blow up this conference report over this is not only a mistake, it is a failure to recognize the tremendously irritating and damaging downward departure situation going on in the country today—letting these criminals off with regard to children's crimes.

I would add that the Reno Justice Department argued in the Koon case for a de novo standard for appellate review. This was the right argument to make.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. Let me finish first. It was a position supported by the Congressional Black Caucus. I have a copy of that letter. Let me read it:

As members of the Congressional Black Caucus, we are writing to you because of our concern about the sentencing of Officer Laurence Powell and Sergeant Stacey Koon by Judge John Davies in the Rodney King civil rights case.

We are troubled that the sentence for the crime was reduced to 30 months upon the court's consideration of mitigating facts. Such a reduction for mitigating factors may be appropriate in other circumstances. However, we feel that the defendant's special status as police officers, with special duties owed to the public, should have militated against such a significant reduction.

As you well know, the maximum possible penalty was ten years and fines of up to $250,000. Your federal prosecutors were asking for seven to nine years. Our federal sentencing guidelines recommended minimum sentences in a range of four to seven years in prison.

Instead, Judge John Davies made broad use of subjective factors. He stated that he read only letters addressed to him from the friends and families of Officer Powell and Sergeant Koon. He argued that much of the violence visited on Rodney King was justified by King's own actions. However, these officers were convicted on charges of violating Rodney King's civil rights. We believe these mitigating factors did not justify so large a reduction given the defendants' special responsibilities as police officers.

In addition, Judge Davies did not afford proper weight to the racist comments made over police radio by those convicted on the night of the beating in discounting race as a motivation for the beating. He similarly failed to take into account the remarkable lack of remorse shown by Officer Powell and Sergeant Koon since their conviction.

People of good will all over this country and of all races were heartened when Officer Powell and Sergeant Koon were convicted by a jury of their peers, a verdict made possible by the Justice Department's resolve to file civil rights charges and by the phenomenal performance of federal prosecutors. With these severely reduced sentences, however, we are sending a mixed message. Are police officers going to be held responsible for excessive use of force or not?

We think what has been lost, in all this, is that police officers have an enhanced responsibility to uphold the law.

Notwithstanding Judge Davies' authority to modify the sentencing guidelines, most experts agreed that the minimum four to seven years sentence should have been followed in this case.

We realize that the trial judge is afforded sufficient latitude in sentencing, but we urge the Department of Justice to appeal these sentences. We need to reexamine these sentences so that justice can finally be done in this difficult, painful case. Only then can we begin to put this behind us.

It is signed by a large number of good Members of Congress.

What we have proposed is that there should be de novo review. We set a standard that is not an easy standard to overcome. We have shown that we have an outrageous situation in this country where a number of judges have been giving extra downward departures far in excess of what anybody in their right mind would think they should do.

This is happening in criminal cases where children are victims, and we are trying to stop that because we think there has to be responsibility here. We believe that in these child molestation cases, pornography cases, prostitution cases, child rape cases, and kidnaping cases the sentencing guidelines ought to be followed.

Nothing says these judges cannot follow the downward departure guidelines if they so choose in their discretion as the trial judges, but they can no longer conjure up reasons outside the guidelines to reduce criminals' sentences.

Basically, that is what the conference report says. I would think everyone in this body would vote for this conference report. I think it does it right and does what we said it would do in the conference, and it does what a bipartisan majority in the House and the Senate said it should do. Frankly, I believe that is right.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. Yes.

Mr. DURBIN. From the outset, the underlying legislation, the Amber alert legislation, the virtual pornography legislation passed through the Senate unanimously twice. There is no controversy concerning the underlying legislation; the controversy that has arisen came up because of an amendment offered by Congressman FEENEY of Florida which found its way into the House version of the bill and then became a subject matter in the conference.

I ask the Senator from Utah this: There appears to be a legitimate difference of opinion, but a very important difference of opinion, about the chart that he has brought to the Chamber. I received, and I believe he also received, a letter from the president of the American Bar Association yesterday. The American Bar Association president wrote to us talking about the so-called downward departures where a decision is made by a judge to impose a sentence below the recommended minimum. He said:

In fiscal year 2001—

The last year shown on the Senator's chart—

of 19,416 downward departures awarded Federal defendants, approximately 15,318 came on Government motion.

Put another way, in 2001, 7 percent of downward departures in the United States were requested by the prosecutor, by the Government.

I know the Senator from Utah sees it differently, but I would like to ask him in good faith—this is a good-faith question—many of us are concerned about sentencing guidelines, whether they are too strong or too weak and whether we should reassess them. I think that was the reason the Senator from Massachusetts offered that approach in the conference. Would the Senator from Utah, in an effort to try to bring together what he has asked for, bipartisan support, to give us his promise that he would look into a hearing relative to the sentencing guidelines so that we can finally bring to rest these questions of fact behind the downward departures and whether we need to look anew at some of these sentencing guidelines.

Many of us think that hearing and conversation is long overdue. If the chairman of the Senate Judiciary Committee would agree to such a hearing, that might move us closer to the adoption of this conference report.

Mr. HATCH. I personally believe we can do that. We did have a hearing in 2000. The hearing was extensive and led to this legislation. By the way, the number on the chart excluded departure requests made by the prosecutors under Section 5K1.1 of the Guidelines, when a defendant provides ''substantial assistance'' to the government. We counted 4,098 downward departures excluding the so-called ''5K1.1 motions'' made by the government. The number of downward departures has risen from 1,241 in 1991. Any Senator should see that this increase is the reason for our concern.

I do not disagree with the distinguished Senator. I think it would be good to find out what the Senator wants to know, and that is, if I understand him correctly, he is asking for a hearing on downward departures.

Mr. DURBIN. If the Senator will yield further.

Mr. HATCH. Yes.

Mr. DURBIN. I hope that we can have a hearing that might go beyond that specific question and to the broader question about sentencing guidelines today.

Mr. HATCH. I would certainly ask the Subcommittee on Crime to do that.

Mr. DURBIN. I say to the Senator from Utah, there have been many times that I have voted for stiff penalties, as he has, for crimes, but I can also tell the Senator from Utah that I have visited, for example, the Federal women's prison in Illinois, and I have seen some situations there that I think are awful. They are miscarriages of justice for these women to be sentenced to 5, 10, 15, 20 years because of an angry boyfriend snitching on them and really assessing liability against them.

Mr. HATCH. Let me interrupt the Senator for one second. I agree with the Senator. I have seen the girlfriend courier go to prison for 10 years when she did not even know what was in the package, or at least claimed she did not, while the boyfriend, the drug dealer, pleaded State's evidence and gets off. Frankly, I do not like that either.

I think we should hold hearings on this, and I will be happy to recommend it to the Crime Subcommittee or if it should be elevated to the full committee, we can perhaps do that. I appreciate the distinguished Senator's willingness to try and help us resolve this today because this bill needs to pass. I do not see how anybody can refute what I have been saying here. I do not see how anyone would not want to get tougher with sentencing with regard to these sexual crimes, especially when they have gone way outside the downward departure limits the Sentencing Commission gives them. We do not stop trial judges from granting downward departures, but they should be done in compliance with the purposes of the sentencing guidelines.

Mr. DURBIN. If I may respond to the chairman of the committee, I do not think the Senator would have any argument from any Member of the Senate, nor would we be here this moment, if he just confined the changes in conference to crimes involving children, sexual molestation. I think he will find unanimous approval of that. The fact we have gone in to de novo review to these departures applies to all crimes. That is why I am asking we take a look at the broad expanse of the sentencing guidelines.

Mr. HATCH. I am not willing to redo this bill because the conference is over. A vast majority has supported it in the House—a huge majority—and a bipartisan majority on the conference. But I am certainly willing to look at it. If we need to modify what we have done here today, I will certainly look at that.

I feel badly the distinguished Senator from Massachusetts feels he was misled, but I do not see how he was misled. I can see there was an ambiguity if one did not look at the whole record. He may not have been there when we decided to use Chairman SENSENBRENNER's language, which was clear and specific. I thought mine was clear, but Chairman SENSENBRENNER's language was more clear than mine. I think everybody there understood.

The distinguished Senator from Massachusetts and the distinguished Senator from Vermont, the ranking member, the Democrat leader on the committee, refused to sign the conference report over perhaps this misunderstanding, but it is a misunderstanding, not a desire by me to do something that is improper.

I thank the distinguished Senator for his comments here today. Those are good points he made, and we will see what we can do.

Let me make a couple other comments before I finish. Let me provide some additional examples of sentencing departure abuse and why we want to change this and why this bill makes a very good step in the right direction.

In one case, a defendant who was convicted of possessing child porn images, over 280 images, more than 10 of which were clearly identified as prepubescent children, was sentenced to serve 13 months in prison and 14 months in home detention, even though the defendant's lawful guidelines sentencing range was 27 to 33 months in prison. Think about that.

At sentencing, the defendant threw in the kitchen sink and moved for a departure on multiple grounds. He argued that his status as a former prison guard rendered him as particularly susceptible to abuse in prison. He argued that he needed rehabilitation and treatment. I have no doubt. He argued his age and his wife's age, his extraordinary family responsibilities, and his military and work histories justified a departure. He argued he was entitled to a ''super'' acceptance of responsibility and argued his conduct was aberrant. Although the Government opposed all grounds of downward departure, the court imposed an illegal split sentence and allowed the defendant to spend 14 months of his 27-month sentence in the home.

Without explaining how many guideline levels it was departing, the court credited the defendant's claim that he was the only one who could take care of his wife, who had degenerative arthritis and had back surgery but nonetheless continued to work as a night janitor—his wife, that is. The court also credited the defendant's claim that, based on his service in the military and his civilian career in law enforcement, his criminal acts were aberrant. Remarkably, these winning arguments enabled the defendant to spend over half of his 27-month sentence in the home.

Now let me state why we need this reporting requirement to the Attorney General that the distinguished Senator from Massachusetts has inappropriately characterized. It is no secret that the Attorney General is in charge of every aspect of prosecuting cases in the Federal courts. Therefore, he has a direct interest in the disposition of criminal cases. Now let me give you a specific example as to why we need this reporting requirement.

There is a Federal judge who routinely violates the Sentencing Commission guidelines because he believes the Sentencing Commission erroneously calculated the sentencing guidelines. He does not depart much, just a little reduction in a sentence here and a little reduction there. But the fact is, he routinely does it. Now the Attorney General may not have the resources to try to appeal each and every time this judge violates the sentencing guidelines. However, if an Attorney General is aware of someone routinely abusing this provision, this reporting requirement will allow him to monitor this and take action when appropriate. That is why we have the requirement in there.

Now let me give you another illustration, some more examples of what is going on here and what we are trying to correct with this bill.

A child pornographer was sentenced this year in Montana. Prior to sentencing, the court raised on its own motion that the defendant suffered from diminished capacity. The court ruled that this young man had extraordinary family responsibilities and that he suffered from a diminished mental capacity. The judgment notes, in part, United States Sentencing Guidelines section 5(k)(2)(13), diminished capacity: Defendant was extremely addicted to child pornography and the testimony of efforts established that defendant had a significantly impaired ability to control his behavior that he knew to be wrong; that the extent to which the reduced mental capacity contributed significantly and substantially to the commission of the offense. The Court departed downward 8 offense levels from offense level 18 to offense level 10. This reduced the guideline range from 27 to 33 months to just 6 to 12 months.

The trial court placed Clark on probation for 5 years.

I want to emphasize again a disturbing fact here about child pornographers. A Bureau of Prisons study shows that 76 percent of child pornographers and those who had been convicted of traveling in interstate commerce to commit sex acts with minors admitted to undetected sex crimes with an average of 30.5 child sex victims. Think about that. These child sexual predators, if you averaged them, admitted to undetected sex crimes with an average of 30.5 child sex victims. Can anyone really say that tougher penalties and sentencing reforms are not needed when it comes to these horrible crimes?

Does anyone believe that judges should be allowed to grant downward departures based on reasons that are not contemplated within the Guidelines themselves?

Now we have supporting letters for this conference report from the Department of Justice, the National Sheriffs' Association, the Law Enforcement Alliance of America, Major County Sheriffs' Association, Fraternal Order of Police, and the National Association of Assistant U.S. Attorneys.

One of the criticisms that has been raised about the conference agreement is that it limits the membership of Sentencing Commission to no more than three Federal judges. Currently, the law requires that the Sentencing Commission be comprised of at least three Federal judges. The hearings before the House and Senate Judiciary Committees showed that trial judges have downwardly departed from the sentencing guidelines to a level beyond what was originally intended. There may be an appearance of conflict of interest when judges, desiring to preserve judicial discretion, serve on the Sentencing Commission whose mission it is to ensure uniformity in sentencing, which necessarily means less judicial discretion.

Currently, judges outnumber other voting members of the Sentencing Commission. Because so, there is a potential for at least an appearance of a conflict of interest.

Now, I do not argue that there is a conflict or that they are acting improperly. I am proud of those who have served. But there is a different attitude in the courts, as Senator KENNEDY has suggested. He has all kinds of letters from judges who do not like this. It means more work to them.

This change will, hopefully, restore the appearance of balance in the Sentencing Commission and eliminate any conflict between the commissioners' desire to retain judicial discretion and uniformity in sentencing.

Now, the National Center for Missing and Exploited Children, the NCMEC, expressed its thanks to the House of Representatives and Senate conferees on agreeing to the language included in the conference report of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act 2003. This was released April 9. NCMEC also expressed its hope that both Houses of Congress would move swiftly to approve the report and enact these important provisions into law. Children throughout the United States will be safer because these key leaders of the House and Senate were able to come together and reach consensus on so many vital issues—Robbie Callaway, chairman of the National Center for Missing and Exploited Children.

I ask unanimous consent that the comments in this press release, along with a letter from Robbie Callaway, who is with the Boys and Girls Clubs of America, along with the National Sheriffs' Association, along with the Law Enforcement Alliance of America, and Major County Sheriffs' Association, the Federal Law Enforcement Officers Association, the U.S. Department of Justice, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 9, 2003.

NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN COMMENDS SENATE AND HOUSE CONFEREES

ALEXANDRIA, VA.—The National Center for Missing & Exploited Children (NCMEC) expressed its thanks to the U.S. House of Representatives and U.S. Senate conferees on agreeing to the language included in the conference report of the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003. NCMEC also expressed its hope that both houses of Congress would move swiftly to approve the report and enact these important provisions into law.

''Children throughout the United States will be safer because these key leaders of the House and Senate were able to come together and reach consensus on so many vital issues,'' said Robbie Callaway, Chairman of the National Center for Missing & Exploited Children.

''NCMEC is particularly pleased that the Conferees finalized language for a true national implementation of the AMBER Alert,'' said Ernie Allen, President and Chief Executive Officer of NCMEC. Allen added, ''this legislation ensures that AMBER Plans become a resource for every state and every community, and that they are implemented in a consistent, meaningful manner.'' The conferees provided funding for notification systems along highways for alerts, as well as funding grants so that states may implement new technologies to improve AMBER Alert communications. Such monies will benefit not just abducted children but every member of the community when an emergency develops, whether weather-related, terrorism, or any other.

NCMEC also applauded important changes in attacking the insidious, expanding problem of child pornography. NCMEC also thanked Congressional leaders for allowing the U.S. Secret Service to provide forensic and investigative support to NCMEC to assist in efforts to find missing children.

Finally, NCMEC commended Congress for taking a tough, serious look at the problem of sex offenders against children and how they are handled by the criminal justice system. Important provisions like changes in the term of supervision for released sex offenders, eliminating the statute of limitations for child abductions and sex crimes, mandating minimum prison sentences for those who kidnap children, punishing those who participate in child sex tourism, and other important changes will strengthen society's ability to cope with these serious crimes and keep children safe.

NCMEC, a private, 501(c)(3) nonprofit organization, works in cooperation with the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. NCMEC was established in 1984 as a public-private partnership to help find missing children and combat child sexual exploitation. It has assisted local law-enforcement agencies on more than 87,000 missing child cases, helping to reunite more than 71,000 children with their families. Today, the organization reports a 94-percent recovery rate. For more information about NCMEC, call 1–800–THE-LOST, or visit www.missingkids.com.

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APRIL 9, 2003.

U.S. SENATE, HOUSE OF REPRESENTATIVES,
*Washington, DC.*

An Open Letter to the U.S. Senate and House of Representatives.

We wish to express our sincerest appreciation to all of you who have played such a key role in moving forward legislation that includes the National Amber Alert. We applaud those members of the conference committee who exhibited the foremost cooperation in working out a compromise that will greatly benefit every child in America.

Today, we are writing to encourage you to quickly pass this legislation so that it can be signed into law. The Amber Alert as well as other preventative measures will make an immediate difference in safely rescuing those who are abducted and in preventing crimes against children.

We can't begin to express our joy and gratitude in having Elizabeth back home. It is our hope and prayer that immediate passage will save countless families from the trauma and sorrow caused by the senseless acts of those who prey on children.

Sincerely,

EDWARD SMART,
LOIS SMART,
ELIZABETH SMART.

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BOYS & GIRLS CLUBS OF AMERICA,
*Rockville, MD, April 10, 2003.*

The Hon. ORRIN HATCH,
*Chairman Committee on the Judiciary,*
*U.S. Senate, Washington, DC.*

DEAR CHAIRMAN HATCH: I am writing to express the gratitude of Boys & Girls Clubs of America to you and the other Senate and House Conferees for the conference report on the PROTECT Act. We are hopeful that final passage will come quickly so that critically important provisions such as the AMBER alert system are enacted.

Along with the AMBER system, we are particularly pleased with the bill's efforts to take on the problem of child pornography, the reauthorization of the National Center for Missing and Exploited Children, and national criminal background screening for youth serving organizations. We are confident that these provisions will make America's children safer, and there is nothing more important than that.

We were pleased to work with your committee as well as the House Judiciary Committee, and know you will continue to call upon us if we can be helpful in this regard.

Sincerely,

ROBBIE CALLAWAY,
*Senior Vice President.*

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NATIONAL SHERIFFS' ASSOCIATION,
*Alexandria, VA, April 4, 2003.*

Hon. ORRIN HATCH,
*Chairman, Committee on the Judiciary, Washington, DC.*

DEAR MR. CHAIRMAN: I write today to discuss the importance of H.R. 1104, the Child Abduction Prevention Act and I am asking for your support of the legislation and for your support of the Fenney Amendment. Passage of this legislation will protect our children against predators.

The House version of the bill has several provisions that protect children. Sheriffs especially support the AMBER Alert provision. AMBER is a highly successful tool for law enforcement and its adoption nationally will enhance our ability to recover children who have been kidnapped. It also provides citizens with a clear means of providing information to law enforcement about these cases.

However, there are additional sections in the House bill that are equally important to sheriffs. Specifically, NSA supports the Fenney Amendment, which limits the practice of downward departures from federal sentencing guidelines. The amendment would put strict limitations on departures by allowing sentences outside the guidelines range only upon grounds specifically enumerated in the guidelines as proper for departure. This eliminates ad hoc departures based on vague grounds, such as ''general mitigating circumstances.'' The amendment also reforms the existing grounds of departure set forth in the current guidelines by eliminating those that have been most frequently abused.

Sheriffs also support provisions like ''Lifetime Monitoring'' of sex offenders and the ''Two Strikes and You're Out'' for repeat child molesters. These provisions are needed to protect our kids from sexual predators. Child molesters are four times more likely than other violent criminals to recommit their crime. A typical molester will abuse between 30 and 60 children before they are arrested, as many as 380 children during their lifetime. The Two Strikes and You're Out provision will save thousands of kids from going through this torture. Each repeat molester represents hundreds of victims with shattered lives. We can break the chain of violence with simple, straightforward proposals like Two Strikes and You're Out and Lifetime Monitoring.

The National Sheriffs' Association welcomes passage of this legislation. We look forward to working with you to assure its swift enactment.

Sincerely,

WILLIAM T. FERRELL,
*President.*

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THE LAW ENFORCEMENT ALLIANCE OF AMERICA,
*Falls Church, VA, April 3, 2003.*

Senator BILL FRIST,
*Majority Leader, U.S. Senate,*
*Washington, DC.*

DEAR MAJORITY LEADER FRIST, On behalf of the more than 75,000 Members and supporters of the Law Enforcement Alliance of America (LEAA), I write to request your prompt attention and support for conference and passage of H.R. 1104, ''Child Abduction Prevention Act'' and S. 151, the ''Protect'' act.

The House recently passed S. 151 with the text of H.R. 1104. The provisions in this legislation are vital protections that address clear and present dangers in America's laws to keep our children safe. Judges will be given the power to enforce supervision of convicted sex offenders for as long as is necessary and child rapists and abductors will be barred from pre-trial release. It would fund important grants to local law enforcement for tracking down wanted sex offenders and provide for mandatory 20 year sentences for strangers that kidnap kids.

The legislation would help fund a national AMBER alert system, put a two strikes rule for child molesters and double the funding for the National Center for Missing and Exploited Children.

LEAA is sure you'll agree that this legislation gives our judges, prosecutors and cops tough tools to fight back at some of America's most horrible criminals. LEAA respectfully asks that you do everything in your power to speed the process for passage of this legislation.

Sincerely,

JAMES J. FOTIS,
*Executive Director.*

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MAJOR COUNTY SHERIFFS' ASSOCIATION,
*Pontiac, MI, April 4, 2003.*

Hon. ORRIN HATCH,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR HATCH: On behalf of the Major County Sheriffs' Association (MCSA), thank you for your legislative efforts to protect our children from sexual crime and abduction and to toughen penalties against those who commit these horrific acts.

Collectively, the MCSA membership represents over 100 million people throughout the United States. As elected Sheriffs and law enforcement officials, we take seriously our responsibility of protecting and serving our citizens, especially our children. In that regard, we encourage your efforts to move forward on legislation which safeguards our children from the hands of those who inflict irreversible harm and pain through crime and sexual abuse, specifically House Bill 1104 and Senate Bill 151.

In addition, the MCSA also supports the language set forth in the Feeney Amendment as passed in House Bill 1104, sponsored by Congressman James Sensenbrenner, which limits downward departures from federal sentencing guidelines. When the perpetrator makes the decision to commit the crime, they must accept the consequences of their actions which should include swift, unwavering penalties. We hope the results of the conference committee scheduled to meet next week will include the Feeney Amendment.

Thank you for your attention and consideration to this important issue. We look forward to working with you on this legislation and any other measure that protects and provides for the safety of our children. Please feel free to call upon me for additional information or comment.

Sincerely,

MICHAEL J. BOUCHARD,
*Oakland County Sheriff, Legislative Chair.*

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FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION,
*Lewisberry, PA, April 7, 2003.*

FLEOA SUPPORTS H.R. 1104—CHILD ABDUCTION PREVENTION ACT

DEAR MEMBERS OF CONGRESS: On behalf of the 19,000 men and women of the Federal Law Enforcement Officers Association (FLEOA), we ask that you support H.R. 1104 and pass this important piece of legislation to protect the children of our nation.

The ''Child Abduction Prevention Act'' will enhance Federal penalties for convictions related to kidnapping, sexual abuse and murder of children. It will also create a national amber alert communications network regarding abducted children to aid in their recovery. The ''Amber Alert System'' is an important tool to assist law enforcement in obtaining leads from the public to assist in a quick recovery of abducted children.

We must protect the children of our nation, for they are our future. The ''Elizabeth Smart Case'' has demonstrated to all of us, the need for this important piece of legislation. As Federal law enforcement officers, we ask that you give us the necessary tools contained in this legislation to assist us in investigating these crimes against our children.

If there are any questions, I can be reached at 717–938–2300.

Sincerely,

ART GORDON,
*National Executive Vice President.*

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U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
*Washington, DC, April 4, 2003.*

Hon. ORRIN G. HATCH,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: We write to urge that the House-Senate Conference Committee quickly reach agreement on the differing versions of S. 151 and promptly send to the President a strong child protection bill that will comprehensively strengthen the Government's ability to prevent, investigate, prosecute, and punish violent crimes committed against children.

The House-passed version of S. 151 includes language that would codify the Administration's ongoing efforts to support AMBER Alert programs by providing for national coordination of state and local AMBER Alert programs and by establishing Federal grant programs for States to support AMBER Alert communication systems and plans. The Senate previously passed very similar legislation, S. 121, by a unanimous vote. The Department strongly supports these AMBER Alert provisions, which should be included in the final version of S. 151.

Both the House and Senate versions of S. 151 include provisions designed to revise and strengthen the nation's child pornography laws in light of Ashcroft v. Free Speech Coalition, 122 S. Ct. 1389 (2002). The House version's child pornography provisions are modeled on an Administration proposal that overwhelmingly passed the House last year as H.R. 4623. The Senate's version is likewise a very strong measure, which also has received the Administration's full support. On this score, the two bills overlap very significantly in approach, if not always in wording. We are confident that the relatively modest differences between the two versions of these provisions can be readily resolved, and we would be pleased to offer technical suggestions in that regard. Swift enactment of these important child pornography provisions would be an important step in protecting children from abuse by ensuring effective child pornography prosecutions.

The House version of S. 151 also includes a number of important measures designed to enhance the Government's ability to investigate, prosecute, and punish violent crimes against children. These measures include: Extending the length of supervised-release terms for offenders and establishment of a rebuttable presumption in favor of pretrial detention; Enhancing law enforcement tools for identifying and apprehending offenders, by including child exploitation offenses as wiretap predicates and by eliminating the statute of limitations for certain offenses; Increasing penalties to more accurately reflect the extreme seriousness of these offenses, especially repeat offenses; Enhancing the Government's ability to punish offenders who travel abroad to prey on children; and Providing the States with additional tools and assistance to pursue these common goals.

The Department has previously testified in strong support of these provisions, and urges the Conference to include them in the final bill.

We also wish to express our strong support for Congressman Feeney's amendment to the House version of S. 151. The Feeney amendment added section 109 to the bill, which is designed to address a number of deficiencies in federal sentencing policy—deficiencies that have proven particularly serious with respect to child victim offenses.

The amendment would address the long-standing—and still growing—problem of "downward departures" from the Federal Sentencing Guidelines—i.e., sentences that are significantly more lenient than those mandated by the Guidelines. The consistency, predictability, and toughness that Congress sought to achieve in the Sentencing Reform Act (which established the Guidelines System) is being undermined by steadily increasing downward departures:

The rate of downward departures on grounds other than substantial assistance to the government (i.e., cooperation in investigating other criminals) has climbed steadily every year for the last several years. The rate of such departures in non-immigration cases has climbed from 9.6 percent in FY 1996 to 14.7 percent in FY 2001—an increase of over 50 percent in just 5 years.

Using the measure recently suggested by the ABA as a benchmark—i.e., excluding downward departures based on substantial assistance and excluding those from Southwest border districts (which use departures to process large numbers of immigration cases)—the rate of downward departures nationwide has more than doubled over the ten years from FY 1991 to FY 2001, going from 5.5 percent to 13.2 percent.

The ratio of such downward departures to upward departures has climbed from 11:1 to a staggering 33:1 in just the last five years.

Far from being "highly infrequent"—as required by the Guidelines Manual—departures based on grounds not specifically mentioned in the Guidelines amounted last year to over 20 percent of all downward departures.

The rates of such sentencing leniency vary widely from district to district: the average downward departure rate in the Fourth Circuit is 4.2 percent; in the Tenth Circuit, it is 23.3 percent.

The rates of downward departures in cases involving certain offenses is nothing short of scandalous. For years, downward departures in child pornography possession cases have ranged between 20 percent and 29 percent nationwide. (In FY 2001, it was 25.1 percent.) Often, these departures are based on much-abused grounds, such as "aberrant behavior" and "family ties." And some of the grounds of departure employed in such cases have been as creative as they are outrageous: for example, a 5'11", 190-lb. child pornography defendant—who has accessed over 1,300 pornography pictures and begun an Internet correspondence with a 15-year-old girl in another State—was granted a 50 percent downward departure in part on the ground that he would be "unusually susceptible to abuse in prison." *United States* v. *Parish*, 308 F.3d 1025 (9th Cir. 2002) (rejecting Government's appeal and affirming the sentence).

The Feeney amendment would enact several reforms to ensure that the Guidelines are more faithfully and consistently enforced:

The bill would make it easier for the Government to appeal illegal downward departures by requiring appellate courts to undertake a de novo review of departure decisions. There is nothing unusual at all about applying a de novo standard of review to a mixed question of law and fact such as the decision to depart. Indeed, in most other contexts, appellate courts apply a de novo standard of review to mixed questions of law and fact, such as suppression issues (probable cause, voluntariness of a statement, etc.). It makes no sense to have a de novo standard of review only for mixed questions that generally favor the defendant.

The bill would require the Sentencing Commission to provide effective guidance concerning downward departures by prohibiting such departures on grounds that the Sentencing Commission has not affirmatively specified as permissible. Under the amendment, numerous authorized grounds of downward departure are preserved, and the Commission retains very broad discretion to add new factors to the list of authorized grounds of downward departure (with the exception of a few much-abused grounds of downward departure, such as "aberrant behavior," that are eliminated by the amendment). Departures based on grounds not specified by the Commission were always supposed to be "highly infrequent," and the amendment simply requires the Commission to do its job of affirmatively regulating the availability of departures. Moreover, the existence of such unfettered departure authority has made Government appeals of improper sentences more difficult. See, e.g., *United States* v. *Blazevich*, 38 Fed. Appx. 359 (9th Cir. 2002) (rejecting Government's appeal of downward departure in child pornography case, because there is "essentially no limit on the number of potential factors that may warrant departure in child pornography case, because there is "essentially no limit on the number of potential factors that may warrant departure," with the exception of those few factors that the Sentencing Commission has proscribed).

The bill would strengthen existing requirements for judges to explain the basis for their departures, thereby facilitating appellate review.

The bill would also limit a defendant to one bite at the apple by generally precluding a second downward departure after a successful Government appeal. There are too many cases in which, on remand, the district court simply re-imposes the same illegal sentence on a different theory, thereby necessitating a second government appeal. See, e.g., *United States* v. *Winters*, 174 F.3d 478 (5th Cir. 1999) (reversing second imposition of the same illegal sentence in civil rights prosecution against corrections officer); *United States* v. *O'Brien*, 18 F.3d 301 (5th Cir. 1994) (reversing district court's imposition, after Government successfully appealed prior downward departure, of an even more lenient sentence in drug case).

The Feeney Amendment would also enact a number of additional measures to strengthen the penalties applicable to those who prey upon our nation's children:

Under current Sentencing guidelines, a defendant is required to receive an enhanced penalty for engaging in multiple acts of prohibited sexual contact with minors, but the enhancement does not apply if the defendant repeatedly abused the same victim. This irrational and unjust disparity would be explicitly eliminated by the amendment.

The amendment would require that child pornography sentences be enhanced based on the number of such images possessed by the defendant. The current Sentencing Guidelines fail adequately to account for the volume of the material, with the result that an offender who sent one image of child pornography over the Internet receives the same treatment under the Guidelines as an offender who set up a website containing thousands of images. The amendment would instead require that sentences be sharply enhanced for offenses involving large numbers of images.

The problem of ignoring the Guidelines in favor of ad hoc leniency is well known and has already been the subject of much study. In October 2000, a Senate Judiciary Subcommittee, under the leadership of Senator Thurmond—one of the original architects of the Sentencing Reform Act—held a lengthy hearing on the problem and received extensive evidence examining downward departure rates from many different angles. The data are already out there, the problem is clear, and further inaction would be a travesty. Indeed, the Feeney Amendment was adopted only after the House Judiciary Committee held two hearings over the last year to review a variety of possible solutions to the growing leniency problem, including mandatory minimums, a total ban of downward departures in certain classes of cases (a position previously endorsed by the Department on several occasions), and a de novo review standard for departure appeals (which had been specifically included in H.R. 1161, as introduced). Based on the extensive record already before the Congress, the Feeney Amendment emerged as a compromise position that preserves district judges' ability to depart, but requires that this departure authority be subject to more consistent and careful review and control by the Sentencing Commission and appellate courts.

The Department strongly urges the conferees to retain these much-needed provisions of the Feeney Amendment in the final version of S. 151.

Thank you for your attention to this important matter. If we may be of further assistance in this or any other matter, we trust that you will not hesitate to call upon us. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

JAMIE E. BROWN,
*Acting Assistant Attorney General.*

Mr. HATCH. I notice the distinguished Senator from Vermont is in the Chamber. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I am somewhat perplexed that we are in this situation. Let me explain why. This is not a question of whether people are for or against those who abuse children. We are all against that, Republicans and Democrats. It is one of those many areas that would unite all of us. Those of us who are parents or grandparents always feel that way. I think of some of the child molesters I prosecuted before I was in the Senate. Invariably, I sought the stiffest sentences possible, and got them, including life sentences. So I do not think any of us has to demonstrate that we are against child molesters. I think the American people know that, of course, we are all against them. That is the way I was when I prosecuted them and the way I am in the legislation I have helped to write.

For example, the AMBER alert bill that is before us: When I was chairman of the Senate Judiciary Committee last year, I put that through in record time. We had a hearing. We had a vote in committee. We brought it up for a roll call vote on the floor in about a week. It was a record. We sent it over to the other body. Of course, they sat on it and never passed it.

This year, I joined with Senator HUTCHISON of Texas, Senator FEINSTEIN of California, and Senator HATCH of Utah. The four of us put through AMBER alert again, brought it up, had a rollcall vote on the Senate floor. Every single Senator who was here that day voted for it. We sent it over to the other body, where it languished.

This conference report also includes the PROTECT Act, to provide prosecutors with important tools to fight child pornography. That is a Hatch-Leahy act. Twice I came to the floor of the Senate and joined Senator HATCH in urging passage of this measure that we crafted together. I do not need to suggest whether I am for that or not. I helped write it.

We have housing for abused children in this legislation. Again, I helped write that bill. I am the lead sponsor. Obviously, I am for that.

We had the so-called Reid shoe bomber fix to the criminal law. I am the lead sponsor of that.

The National Center for Missing and Exploited Children authorization, I am a lead sponsor of that.

The victims' shield, the cybertipline, these are things I have sponsored and supported. I have no problem with any one of them.

But what happens, and I hate to think this is why the other body has refused to take up our AMBER alert bill twice now, we suddenly have a bill that comes back—actually, as my friend Senator KENNEDY pointed out during our only conference meeting in this matter, subject to a point of order with new and controversial provisions added to a once non-controversial and bipartisan bill.

It would have been so much better if the other body had simply taken the bill I got out of the committee last year and we passed in the Senate, and having failed to do so, it would have been so helpful had they taken the bill—of Senator HATCH and myself and Senator KAY BAILEY HUTCHISON and Senator FEINSTEIN—and passed it here, this year, and gone with that. The House leaders chose not to pass it. They delayed its passage and tried to use it as a sweetener to add on a number of controversial items.

I wonder what would have happened had they simply taken the bill and passed it last year. The President made clear he would sign it after we passed it by such an overwhelming majority. The other body decided not to.

I wonder what would have happened had they picked it up and passed it this year after we passed it through the Senate. The President would have signed it. Maybe we would already have a nationwide AMBER alert system today. One wonders how many children might have been saved by such a nationwide AMBER alert plan if the other body had been willing to pass that bill last year or earlier this year when we passed it.

So many, Republicans and Democrats alike, came together on parts of this bill with the idea of protecting children. I worry when efforts to protect our children are used as pawns by those who play politics by attaching legislation of a more controversial nature. Of course, the AMBER alert legislation is in there. I was a main sponsor of that last year and this year. Of course, I am happy about that and I will speak further on that later.

I cannot imagine a worse nightmare than a family having an abducted child. I remember sitting around the clock with families when I was a prosecutor as we were trying to find their children. I also remember some cases where we found a child and the child was dead. I remember as a young prosecutor, trying to keep my composure in the trials when I prosecuted the people who did that and seeking the maximum sentence. One, especially, I still have nightmares about to this day, a case in Chittenden County. I remember it as though it were yesterday even though it was many years ago.

So that is why I worry when we find ourselves in a situation where all of this time-consuming discussion on more controversial matters could have been avoided. We have so much in this legislation, that Republicans and Democrats alike have joined in, so much that our staffs have worked on so hard over the last 2 years. So many things of these measures are helpful and broadly supported by police, Governors, and those who have to deal with abused and neglected children.

The unfortunate situation is—whether it is overreaching, whether someone was looking for an opportunity, I do not know—that members of the other body insisted once again on adding controversial measures that have already slowed down this important legislation.

These are bills that came out of the House Judiciary Committee and the Senate Judiciary Committee. We, of all people, should be willing to set the standards and make sure we follow the rules. We, of all people, should not add things in controversial provisions that do not belong here. That is what has been done.

I can think of things I would have liked to have had included in the conference report—and not controversial matters at that—but unfortunately, even non-controversial requests by the minority were not afforded the same consideration as highly controversial proposals by the majority.

I tried to add the Hometown Heroes Survivors Benefit Act of 2003. This legislation would improve the Department of Justice Public Safety Officers Program by allowing families of public safety officers who suffer fatal heart attacks or strokes to qualify for Federal survivor benefits. I have been at the funerals of officers who died of a heart attack after putting their lives on the line to protect their community.

Each year hundreds of public safety officers nationwide lose their lives and thousands more are subjected to great physical risks. The benefits can never be the substitute for the loss of a loved one. Families of fallen heroes depend upon us for helping out when their family members make the ultimate sacrifice.

I tried to include the Hometown Heroes bill to fix this loophole and assure the survivors of public safety officers who die of heart attacks or strokes, who die within 24 hours of being on the job, are eligible to receive financial assistance. We passed this bill in the House last year. Representative ETHERIDGE, in the other body, and I introduced identical versions of this legislation. The House passed it, but an anonymous Republican hold in the Senate stopped those benefits for the families of fallen police and firefighters.

During the conference, I offered this bill as an amendment, hoping to see it become law. Unfortunately, the majority blocked it.

My colleagues across the aisle overlook the fact that public safety is dangerous, exhausting, and stressful work. A first responder's chance of suffering a heart attack or stroke greatly increases when he or she puts on heavy equipment and rushes into a burning building to fight a fire or save lives. To not be able to participate in the PSOP program—I wish my friends on the other side of the aisle allowed families, survivors of those who died in the line of duty that way, to be able to at least have the benefits that go to other officers. I think it is unfortunate.

I have heard from police officers, I have heard from firefighters. They ask, how can this possibly happen? Is this a partisan issue? I say, I hope it is not. If there is one thing that should unite Republicans and Democrats, it is support for the families of those who die in the line of duty. We could have done that. Unfortunately, Republicans in the House and Republicans in the Senate voted it down. I hope they will reconsider that decision. I would welcome them back to the fold. But also, the families of firefighters and police officers, the first responders, would welcome them back. They face grave disappointment today. They cannot understand why this was not done. They would like to see it back. I call on the Republican leadership to instruct the Members to let this go through.

I am glad the conference report did include a provision I introduced in the last Congress to clarify an airplane as a vehicle for the purpose of terrorism and other violent acts. I tried to include this bill in the omnibus appropriations measure, but the Department of Justice blocked it. Then, to my surprise, the same provision appeared in the leaked copy of the Department's new antiterrorism package.

This bill is meant to address a discrete problem that surfaced in the prosecution of Richard Reid, a man who tried to blow up an international flight from Paris to Miami. In that case, the court dismissed a charge against Reid over the question whether the airplane he attempted to destroy was a mass transportation vehicle. This makes it very clear that it is. I am glad this clarification was included at my request.

There are many things in this conference report that I either helped write or cosponsored that we can all support. The Leahy-Kennedy legislation establishes a transitional housing grant program within the Department of Justice to provide to victims of domestic violence, stalking, and sexual assault, the necessary means to escape the cycle of violence. That is in here. Today, more than 50 percent of homeless individuals are women and children fleeing domestic violence. This will help real women and children, including many in my home State. I commend my colleagues who, after some initial opposition, joined with Senator KENNEDY and me on this legislation.

I am glad the Protecting Our Children Comes First Act is in this conference report. It is a bipartisan bill I introduced both in this Congress and the last, joined by my friend from Utah as well as Senator DEWINE of Ohio and Senators BIDEN, SHELBY, LINCOLN, and HARRY REID. Our bill reauthorizes the National Center for Missing and Exploited Children. It needs to be reauthorized. That is in here.

We proposed reauthorization through the year 2007, but at least it has been agreed to through the year 2005. We agreed to double the grants. We also authorized the U.S. Secret Service to provide forensic and investigative assistance to the National Center; and we strengthened the Center's Cyber Tipline to provide online users an effective means of reporting Internet-related child sexual exploitation in the distribution of child pornography, online enticement of children for sexual acts, child prostitution, and child pornography.

Of course, the Hatch-Leahy PROTECT Act is the centerpiece of this bill. And after all the hard work that Senator HATCH and I completed to craft this bill, introduce it twice, and usher it through the Senate by two unanimous votes, I do not have to tell any one how pleased I am that the House adopted most of our provisions. The key provision from the House bill that is retained is the so-called ''virtual porn'' provision, which I predict will be the subject of much constitutional scrutiny. We will see how the House provision fares before the Supreme Court, I am sure.

So there are a number of things that are good in this bill. That is why I am frustrated we have this situation. It is because of overreaching, because of putting controversial measures in that have received little or no consideration in either body and have delayed enactment of the better parts of this bill, that we do not yet have a law passed.

I say this really out of sadness. No. 1, we did not have to be here today. The Senate passed both the Amber bill and the PROTECT Act twice, once this year and once in the last Congress, and sent clean bills to the House both times.

When these bills came out of committee last year, when I was chairman, the Senate passed them by unanimous votes on the Senate floor. They passed. We sent them to the other body and they let the bills sit there. When Senator HATCH took over as chairman of the committee this year, we passed them out again. Both Senator HATCH and I, as well as Senators FEINSTEIN and HUTCHISON, were the main sponsors of the Amber bill. Senator HATCH and I were the main sponsors of the PROTECT Act. The Senate passed them out again. Again, they sat over in the other body for months without action.

Now we find out why. It appears that the Republican majority in the House was looking for legislation with that kind of universal support and popularity on which to attach controversial measures that might not have support in the Senate.

That is unfair. That is unfair to children. That is unfair to those who may be abducted. That is unfair to those of us who spent years trying to protect children. It is unfair to those, myself and others in this body, who were once prosecutors and prosecuted child molesters and abductors. It is unfair to them and to others.

I will put more material in the RECORD. I will go back to this. But I urge my friends on the other side of the aisle to find a way out of this increasing partisanship because it has delayed passage of this important legislation, which has so much in it to protect children.

I see my colleagues on the floor. I see the Senator from Alabama who I assume—he is nodding yes—I assume he is looking for the floor, so I will yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I just will share a few thoughts I think are very important with regard to this legislation.

We seem to have strong or at least grudging support from everybody on the underlying portions of the bill. At least that is what we are told repeatedly. But there is a suggestion that the Feeney amendment is such a horrible thing that the entire PROTECT bill should not go forward.

I will just say a couple of things about that. The Feeney amendment was designed to deal with a growing problem of Federal judges downward-departing from the mandates of the sentencing guidelines and thereby giving lighter sentences than should be given to criminals. It is a growing problem.

Senator HATCH had the chart there. Downward departures went from 1,200 in 1991 to over 4,000 in 2001. There have been some erosions of the clarity of the law about that. In effect, we are at a point of some danger that the integrity of the guidelines would be undermined.

So I felt from the beginning we ought to give, in this body, serious consideration to the Feeney amendment and review it and see what we could do about it. That is my general view of that.

I served as a Federal prosecutor for almost 15 years. I was a Federal United States Attorney when the sentencing guidelines were passed. I applied them. I carried around the sentencing guideline manual. I could look through and find the upward departures and downward departures and all the statistics and how to figure out how many prior convictions should be considered in the defendant's criminal history. You would figure out the nature of the criminal act, did it involve violence, did the defendant carry a gun, did it involve a particularly vulnerable victim like a woman or a child. You would do all those things. A lot of experienced people in criminal justice came together and put the Sentencing Guidelines together over a decade ago. It was a remarkably good achievement.

Most experts who knew about it said basically they were compiling and putting into law what most Federal judges, mainstream Federal judges in America were doing, anyway. But it compromised those who were especially harsh and those who were especially light. Frankly, when you give a lifetime appointment to a Federal judge and he or she decides they don't want to enforce child pornography laws or child abuse laws and they don't think those are particularly significant crimes that ought to be in Federal court and they depart downward, and you are in a position where the law is unclear, they can depart with impunity. If the judge is elected, at least you can vote him out of office sometime, but you can't do that for an unelected, lifetime-appointed judge.

For the most part, I think judges follow the guidelines scrupulously. But these statistics on this chart, which shows an almost fourfold increase over a decade in downward departures, are troubling.

I served on the Senate Crime Subcommittee. We had hearings in the year 2000 to confront this problem. In fact, we even asked the Sentencing Commission to give us some information on it, but they still have not given us that information.

So the Feeney amendment comes along. It was offered in the House of Representatives and it applied to all crimes. They put that amendment on to the AMBER Alert legislation that was going through the House of Representatives, and made it an appropriate part of the PROTECT Act that we would conference about, that we would confer about.

I thought it was a matter that ought to be given serious thought. I had not overtly committed to the Feeney amendment, but as someone who worked with the sentencing guidelines, I felt that the intent of it was good.

So there was a big controversy. My colleagues on the other side said: Well, we are not going to pass this bill that will protect children. We believe in protecting children, but you can't have the Feeney amendment on it. It is irrelevant to children. It does other things in the criminal justice system, and we are not prepared to vote for that. We are not troubled, in effect, by Federal judges who are downward departing in record numbers. So we don't want that on the PROTECT Act.

We got a call from a Federal judge who said: It is restricting my freedom to do what I want to do, and we don't think it is a good idea. Take the Feeney amendment off.

Well, Chairman HATCH, who has been in this body a long time, and has been chairman of our committee off and on for a number of years, and Chairman SENSENBRENNER in the House, they knew there was a complaint about it. They knew people were unhappy about the Feeney amendment. So they got together and they decided: What could we do about it? And they decided to offer a suggestion and a provision, an amendment that would solve the problem. And I, frankly, am amazed it is having any difficulties getting passed in Congress.

What my colleagues on the other side said was: OK, since this is a child protect bill, we will not put in this limitation on downward departures—this legislation that really only tightens up the freedom of judges to abuse the guidelines. We will not do that for all these other cases, but since this is a child act, and we have historical and anecdotal records of child abuse cases where judges have improperly downward departed, we will just apply the Feeney amendment to those cases involving minor victims and sex offenders.

Certainly that was very consistent with the intent of the act. It dealt with the situation of some judges not taking these cases seriously. And we had a history of it. The legislation dealt with the problem of repeat offenders because some people seem to think if a person is caught in a child sexual abuse case, and they come in and say, ''Oh, judge, I'm sorry, I won't do it again,'' that you can rely on that.

People in churches have heard people say that, and they have believed them. But I have been a prosecutor. I have seen the numbers. I have seen the prosecutions. Most of them have not offended just once or twice, but they have done it several times over a period of years. They come back to it again and again and again. I wish that were not so. I wish it were not so. But you cannot rely on the words of a pedophile, that they are not going to offend again, because history and science and criminal justice statistics show that they go back to these horrible acts again and again, ruining the lives of another child, another child, and another child. It is a big deal in America. It is not a little deal.

So the Feeney amendment was really constrained. It did not apply to all criminal justice cases; it applies to sex cases and those involving child and sexual abuse.

I would say, as a Federal prosecutor, and knowing the kind of cases that are prosecuted in Federal court—bank fraud, bank robbery, all kinds of white-collar crimes, gun cases, drug cases, international smuggling cases, and all those—I am confident—this may shock some people—I am confident that less than 2 percent—probably less than 1 percent—of the Federal cases prosecuted in Federal court deal with child sexual abuse. Most of them—many of them—are tried in State courts, and the ones that are prosecuted in Federal court are fairly limited in number.

So what Senator HATCH, Senator GRAHAM of South Carolina, and Chairman SENSENBRENNER offered was a tremendous move in the direction of the opponents who were concerned about the downward departure rule contained in the Feeney amendment. And they focused it simply on this very small but very important number of cases dealing with the abuse, sexual assault, kidnaping and rape of our citizens in America.

I think that was a very generous amendment. And I would have thought that would have settled the matter completely. I remain baffled that we would see this kind of opposition, the kind of opposition that would suggest they are willing to kill this important legislation that, if passed, this very day could save the lives of children, could save other children from being abused by a pedophile, if we pass it. And if we don't pass it, if we delay it, the victimization of our children could continue for a long time.

And some say: Well, this Feeney amendment is so extreme and so controversial. I suggest not, Mr. Chairman. Looking at the vote in the House of Representatives, when the full Feeney amendment came up, tightening up the ability of judges to downward depart on all the cases in the criminal justice system—the 98 percent plus the 2 percent—the vote was 357 for and 58 against, 1 voting present.

Now, that is an overwhelming vote. And then, when the conference report came back, after the Hatch-Sensenbrenner modification was put in, dramatically reducing the number of cases impacted by the Feeney amendment to 2 percent or so, or less—probably 1 percent or less—involving sexual abuse cases, it passed 400 to 25. So it comes out of the House 400 to 25—overwhelming support from Democrats and Republicans. You have more than 25 liberals, you have liberals and conservatives, Republicans and Democrats voting for this bill in the House of Representatives, overwhelmingly. Yet here we are having this legislation, as critical as it is, being held up over this small amendment, after Chairman HATCH had worked so hard to settle the issue and to accommodate my colleagues on the other side of the aisle.

So I think it is important that we understand that. It is important that we pass this bill now. There is no need for it to continue. Who knows? This very day—as a matter of fact I know this just because of the statistics that are out there some child has been sexually abused. Maybe there is a child being kidnaped right now. This legislation could help save that child, and other lives.

And I noticed Senator DURBIN suggested—and I see Senator KENNEDY and Senator LEAHY in the Chamber—well, maybe we could talk about having a hearing on the sentencing guidelines and minimum mandatory sentences. I am not opposed to that, but I will just say this: I really care about sentencing guidelines. I think there should be integrity in the enforcement of those guidelines.

Federal judges should not get in the habit of eroding the clear injunctions of those acts. And the way they are doing it today, sometimes they are not writing opinions and explaining why they are doing it, leaving it very difficult to determine what has actually occurred, and making it difficult to appeal. So I think we ought to have integrity in sentencing. But we, as a Congress, I say to my colleagues on the floor, passed the guidelines. We set up the mandatory minimums. We created the Sentencing Commission, and we directed them, in large part, on how to carry out sentencing.

The Congress has taken over sentencing; that is true. And after these many years of experience with the guidelines, I do not have any doubt that we could improve it, and that we ought to make some improvement. In fact, I would say to my colleagues here, who think some of the sentencing guidelines are too tough—and that is what you hear a lot—that Senator HATCH and I are the only two Members of this Senate, that I know of, who have taken any action to fix it.

We offered the Hatch-Sessions bill last year and are reoffering it this year, that would deal with what I believe to be an unfair circumstance: The crack cocaine/powder cocaine sentencing disparity. I don't believe the extent of the disparity is justified. If you want to complain about something, let's talk about that. Not child pornography, child sexual abuse, not sexual cases. I don't see a problem in the guidelines with those cases. If anything, those sentences need to be toughened up.

I do agree, as a person who regularly and consistently prosecuted cases, that we can improve the sentencing disparity on crack and powder cocaine. For every child sex case, there are probably 10 crack and powder cocaine cases going through Federal court. Let's talk about that. I would be willing to talk about that.

I also think we should pass the Hatch-Sessions bill first. That legislation takes a major step forward in creating some fairness in the system and deals with the courier case, the girlfriend case. It deals with the sentencing disparity between at some points as much as 100 to 1 between crack and powder cocaine. It narrows that, substantially eliminating the unfairness there. Let's do it that way. Let's not stop this bill. This bill needs to go forward.

I understand the concerns about sentencing guidelines in general. How should we fix it? We should fix it by maintaining integrity in the sentencing process, not by standing idly by if judges are violating that process.

No. 2, if we carry out our responsibilities, we will look at the act as we pass. We will look at the sentences being imposed in the courtrooms of America and if we were wrong in any of those sentences, we should change them. The one area I am confident we could do better in is the crack and powder cocaine issue. I am prepared to act on that. I have offered legislation that would act on that. It would reduce the crack cocaine sentences significantly. A lot of people don't want to appear to be soft on crime. They don't want to appear to reduce any sentences. But I have been there. I have seen defendant after defendant go off to jail. Several years in a row my office had some of the highest average sentences in America for drug cases. I didn't apologize for that one bit. But if the sentences are not what we need if some, like powder, are not tough enough and need to be increased, and some like crack need to be reduced we should eliminate some of the criticisms about justice in American by being more consistent in how we sentence. That would create more public confidence in the system, and we ought to do that. I am prepared to take the lead on that. In fact, Senator HATCH and I have led on that. We have stepped to the plate and proposed to make progress.

I suggest that the PROTECT Act needs to move forward. Chairman HATCH and Chairman SENSENBRENNER have done the responsible thing. They have examined the complaints about the Feeney amendment. They have reduced those complaints to an extraordinary degree. They kept this legislation focused on sexual abuse cases, as it should be. We ought to support it.

One thing we know is that sexual offenders and predators are repeat offenders. A 1998 study of sexual recidivism factors for child molesters showed that 43 percent of offenders sexually reoffended within a 4-year follow-up period. Almost half of the people arrested as child molesters reoffended in a sexual abuse case within 4 years. I would suggest some of those reoffended and were not caught. There is no doubt in my mind that within 4 years, if this number is accurate, we could say with certainty that over half of those offenders in 4 years reoffended. That is a serious social problem.

One thing we put in this bill is important. We put in a provision that would allow lifetime supervision after release from custody or after probation, if that occurs, if the judge feels the defendant poses a danger to society. That is the right thing to do. I am so glad that is in this bill. Senator HATCH and I offered language to that effect. We suggested it last year.

The theory behind it is simply this: science and history tell us that child molesters are repeat offenders. Pedophiles reoffend. Do we want to keep them in jail forever? They ought to be kept in jail a long time—no doubt about that in my mind. Should they be kept in jail forever? Very few are kept in jail forever, whether they should be or not. Large numbers of them are released. Under the normal Federal sentencing guidelines, post conviction supervision is 1 to 5 years. So after that 5 years is over, these sexual offenders are not even being supervised by Federal probation officers.

It is a rational and logical and just step to give a Federal judge the ability to impose post-release supervision for as long as he or she deems appropriate. That is a good step in the right direction.

According to the Bureau of Justice statistics, released rapists were 10.5 times as likely as nonrapists to be rearrested for rape, and those who had served time for sexual assault were 7.5 times more likely as those convicted of any other crime to be rearrested for a new sexual assault. Do you see what that is saying? Those are stunning numbers, when you think about it. They tell us that released rapists are 10 times more likely to rape someone else in the future; that tells us that when you apprehend a rapist, it needs to be taken seriously. We need to understand that a person who has committed rape in the past has a much, much greater potential for raping another innocent human being in the future or for molesting another child in the future. That is why Federal supervision can be helpful there.

Good Federal probation officers work hard. They stay on top of offenders. Perhaps they can identify circumstances when offenders may be getting in trouble or acting in an unhealthy way, to make sure that the jobs sexual offenders take do not place them in contact with children. Perhaps probation officers can otherwise monitor offenders' activities to substantially reduce the likelihood that they would reoffend.

I thank Senator HATCH for his leadership. We thought we had an agreement with Senators LEAHY and KENNEDY and others to move this bill forward. Unfortunately, we are not moving forward at this moment. I hope we can break the logjam so that this important legislation will go forward to final passage.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I will only speak for about 3 or 4 minutes, I tell the Senator from Massachusetts. I appreciate the recognition.

I want to speak on the AMBER alert portion of this legislation because we have been working on it for several months. We passed AMBER alert legislation last year. Senator FEINSTEIN and I cosponsored the legislation. Senator HATCH and Senator LEAHY were very supportive. We passed AMBER alert again this year and hoped very much that we could get a clean bill that would be signed quickly by the President.

However, I know provisions were added that are very good provisions. I am very pleased that we have finally gotten a bill that the House has passed and would be able hopefully to pass this legislation and send it to the President.

Because the AMBER alert is proven to save lives, Senator FEINSTEIN and I have been working very hard to get it passed through the Senate. Ed Smart, a constituent of the distinguished Senator from Utah, told us how important AMBER alerts were in helping to find his daughter Elizabeth. Even though she is one of the few abducted children who was found after a long period, it was the publicity that made the difference because a person who saw the picture of the suspect in the paper then saw the suspect on the street, and the police were able to walk up to the suspect and Elizabeth Smart was right there with him. So it does make a difference that we have this kind of publicity.

To date, sixty abducted children have been recovered with the assistance of AMBER alert. In fact, the statistics show that 75 percent of recovered children are recovered within the first 3 hours. You can only do this with the large electronic road signs and with media helping you to get the word out that this is a child in peril. That is why the AMBER alerts do work, and the quick recovery is the best chance we have for a recovery at all.

There are Federal grants authorized in this legislation that will help educate States about AMBER alerts and assist States so they won't be overused. The legislation will provide for a person who will be in the Justice Department—the AMBER coordinator—so that a law enforcement officer who believes a suspect may be going to another State can make one call to the Justice Department and not worry again about the recovery effort continuing. The Justice Department can put the word out to the other contiguous States and really make a difference.

The AMBER alert bill has had a lot of supporters: The National Center for Missing and Exploited Children, the National Association of Broadcasters, and the Fraternal Order of Police have all been instrumental in passing this legislation. I had hoped we could pass it earlier. I had hoped we would have passed it last year to get other States up to speed, so they would have good, solid AMBER alert systems that would coordinate with the Justice Department. But it is April of 2003 now and it is time to pass this legislation.

Senator FEINSTEIN and I have worked very hard to do this. We thank Senator HATCH and we thank those who helped us with the original legislation. I know there are differences in some of the add-ons. Believe me, we would have liked to have had a clean bill. But we don't get exactly what we want in the legislative process. There are a lot of other people with different views and they have to be accommodated.

So I am very pleased we have the bill before us. I intend to support it, and I hope we can pass it and send it to the President.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I listened to the Senator from Texas in terms of her strong support. I know she has been involved in the AMBER legislation, as others have, such as my friend and colleague from Vermont. We all remember the work done by the committee itself last year when we initially sent this over to the House of Representatives. We waited a long time. It didn't come back. We sent it back over in January. It didn't come back. Now we have this part come back, of which we are all in support.

I must say there are procedures that probably would have to be streamlined, but the provisions that apply to those who are going to be involved in the abduction and kidnaping of children and the various sex crimes outlined and considered in the legislation, that is not any point of dispute. We are in strong support.

The fact is, there are other factors included in this legislation on which there haven't been hearings and which basically undermine the criminal justice system, as pointed out by the Chief Justice of the United States. It is not just the Senator from Massachusetts, it is the Chief Justice of the U.S. and he has not been known as a coddler of criminals or lenient on defendants. That is not the reputation of the Chief Justice of the United States, Mr. Rehnquist. Yet he has serious reservations about the provisions of this legislation which we have addressed earlier today and which were addressed in the conference.

So I want to make some additional remarks at this time to once again let my colleagues know what is really involved in the legislation.

As I mentioned earlier, when we came out of conference, it was said by the chairman of the committee that rather than have the Sentencing Commission do a review and report back in 180 days about the sentencing requirements under this legislation, then we could either enhance or adjust, or rather than even having hearings by the Criminal Justice Subcommittee of the Judiciary Committee, then we could move ahead and consider those on the floor of the Senate. We accepted, after the 6 or 7 minutes of debate and discussion on the floor of the House of Representatives, and without any hearings whatsoever in the Senate or in the Judiciary Committee, provisions that have broad application to all of the sentencing guidelines. We have heard explanations that they really don't, but they do.

I will review them very quickly here this afternoon once again. There are three major ways in which this conference report goes beyond the issues of crimes against children.

First, the bill changes the standard of appellate review in all cases, not just cases in which children are victims. This overturns a unanimous Supreme Court decision and radically changes the Federal sentencing system.

Do we understand that? This legislation overturns a unanimous Supreme Court decision, without a single day, hour, or minute of hearings. That is one reason the Chief Justice, the Judicial Conference of Judges, the American Bar Association, all have expressed their opposition to these provisions.

Second, the bill imposes new reporting requirements when judges depart in any case, not just children cases, and this is a blatant attempt to intimidate the judiciary. It says to judges you will be called on the carpet if you depart downward. Your name will be given to the Attorney General and he will report you to Congress. If that isn't a blacklisting for Federal judges, I don't know what is, Mr. President. If these judges are not competent to serve on the Federal judiciary, they should not have been recommended—in these cases, Republican Presidents—or approved by a Republican Senate. But these are the ones who are basically applying these guidelines at the present time.

Third, the bill directs the Sentencing Commission to limit downward departures in all cases, not just child cases. This proposal is based on the erroneous view that there is excessive leniency in the Federal sentencing system. The Federal prison population has quadrupled in the last 20 years. The length of sentences is up dramatically in 20 years.

Those are three major departures from the assurances that were given by the chairman of the Judiciary Committee in that conference. His amendment, which is included in the conference, would only apply to the issues that were before us dealing with children and children's crimes. These are three examples of where they will affect all of the sentencing, and that has not been refuted this afternoon.

I want to take a moment of time to consider a response to many of the claims that have been made here about the problems in the Federal criminal system—claims, quite frankly, that are not supported by any record in the Senate, I might add. This is the analysis of eight highly respected former U.S. attorneys, most of whom are Republicans. They wrote to the Judiciary Committee:

> We write, as former United States Attorneys in the Southern and Eastern Districts of New York, to express our concern about Section 109 of S. 151/H.R. 1104, the Child Abduction Prevention Act. This proposed legislation—which contains some of the most far-reaching revisions of the federal sentencing process in many years—was passed by the House of Representatives on March 27, 2003. Our concern regarding this legislation is based not only on the questionable justification for many of its provisions, but also on the fact that it has already been adopted by one house of Congress without any meaningful input from the judiciary, the Sentencing Commission, members of the bar or other interested experts and members of the criminal justice community.

It continues:

> . . . The proposed legislation not only disregards the Sentencing Commission's unique role in the federal sentencing process, but also ignores Congress' own admonition that the views of interested parties in the federal criminal justice system be carefully considered before changes to the Guidelines are enacted.
>
> The proposed legislation raises serious questions on its merits as well. To start, the justification for such sweeping changes is unclear. Although the number of downward departures not based on cooperation has increased in the last several years, 70 percent of that increase is attributable to departures in a small number of ''border'' districts that handle an extraordinary number of immigration cases which place unique demands on

the criminal justice system. The localized nature of this increase does not justify a nationwide restriction on the availability of downward departures in all cases.

The sparse legislative history of this proposal similarly reflects that it is an unnecessarily broad response to a particularized concern. The amendment's author has stated that the legislation is prompted by the fact that a ''disturbing trend has occurred, especially in child pornography cases'' and that departures have become a ''common occurrence.'' If downward departures have become commonplace in one particular type of case, then careful scrutiny of the reasons for this phenomenon, and of the appropriateness of the Guideline level for that type of case, may well be warranted. It does not, however, justify a wholesale restriction of downward departures for all cases within the criminal justice system.

The legislation also contemplates unwarranted limitations on the exercise of sentencing discretion by the federal judiciary. A United States District Judge has the unique and difficult responsibility of imposing criminal punishment on a defendant based on an individualized assessment of the facts and circumstances of a particular case. Indeed, Congress has explicitly recognized that the Sentencing Guidelines are intended not only to avoid unwarranted disparity in sentencing but also to maintain ''sufficient flexibility to permit individualized sentences when warranted by mitigating or aggravating factors not taken into account in the establishment of general sentencing practices.'' 28 U.S.C. §991(b)(1)(B). . . .

In fiscal year 2001, putting aside the ''border'' districts and departures based on cooperation (which require the government's consent), district judges departed downward only 10.2 percent of the time. Moreover, 85 percent of all defendants who received non-cooperation downward departures that year nevertheless were sentenced to prison. What these statistics reveal is a relatively limited exercise of sentencing discretion of the sort contemplated by Congress when it authorized the promulgation of the Guidelines.

The legislation also would overrule the Supreme Court's decision in Koon v. United States, 518 U.S. 81 (1996). This, too, is of serious concern. In Koon, all nine Justices of the Supreme Court recognized that an appellate court should review a decision to depart from the Guidelines with ''due deference'' to the district court's decision, and that such a decision should be overruled only if the district court abuses its discretion.

That is what the Supreme Court said, but that is not what is in the Hatch amendment.

Continuing to quote the letter:

The decision correctly recognized that district judges are uniquely qualified to decide whether a departure from the Guidelines is justified by the particular circumstances of a given case or the background of a particular defendant. The legislation's substitution of a de novo standard of review would allow appellate courts to second-guess sentencing decisions without any meaningful guidance as to when those decisions should or should not be upheld. Moreover, given the fact that the government currently has the ability to appeal unauthorized or excessive downward departures and is successful in such appeals about 80 percent of the time—

Understand that, 80 percent of the time when the Government appeals these cases, they are successful.

A change in the appellate standard of review appears unnecessary to enable the appellate courts to overturn unwarranted departures.

These and other concerns have prompted objections to the proposed legislation from representatives of a wide variety of interested parties to this issue. This includes the Secretary of the Judicial Conference of the United States, all five current voting members of the United States Sentencing Commission, all three Chairpersons of the Commission since its creation, the President of the American Bar Association, and numerous other bar organizations. As former members of the Department of Justice, we respectfully urge you to allow careful consideration of their views, and those of other interested parties, in a public forum before deciding upon the wisdom of any of the sentencing reforms contained in this proposed legislation.

Imagine that, they are requesting us to give some consideration and have a hearing on it. According to the chairman of the Judiciary Committee, there is no chance for that. We are just going to be faced with this situation.

The entire premise of the Feeney amendment is that departure from the guidelines is a problem that needs to be stamped out. That reflects the fundamental misunderstanding of the guideline system. We never intended the Sentencing Reform Act of 1984 to eliminate judicial discretion. We struck a balance between sentencing uniformity and individualized sentencing. We recognized that guidelines cannot possibly describe every single case. We need uniform rules, but then we need flexibility in individual cases.

There is no epidemic of leniency in the Federal criminal justice system. The Federal prison population has quadrupled in the last 20 years. It is now larger than any State system.

The departure rate is not excessive. In the committee report accompanying the 1984 act, we anticipated a departure rate of around 20 percent. That is what the estimates were at the time we accepted the Federal guidelines. In fact, the rate at which judges today depart over the objection of the Government is slightly more than 10 percent. So we are well within the acceptable rates.

If there is any problem at all, it is with Government departures. The American Bar Association reports that 79 percent of the downward departures in the United States were requested by the Government. Unlike judicial departures, which are subject to appellate review, departures sought by prosecutors are essentially unreviewable. Maybe we need to look at the procedures adopted by the Department of Justice in this area.

Why do judges depart? According to the Sentencing Commission, the second most frequent reason for departure is ''pursuant to a plea agreement.'' That accounts for 17.6 percent of downward departures other than substantial assistance. Only a small fraction of departures are based on the offender traits the Senator from Utah complains about—family ties, 3.8 percent; rehabilitation, 1.7 percent; mental conditions, 1.1 percent.

It is only a small number of defendants that benefit from judicial leniency. In all the talk about leniency, we forget who these judges are. Many were appointed by Republican Presidents. All were confirmed by the Senate. Many are former prosecutors or other government officials. These are not people predisposed to sympathy for criminals. They are toughminded, responsible pillars of their communities trying their best to impose just sentences within the constraints of the law. Almost 80 percent of the time, the prosecutor agrees that leniency is warranted. Sometimes the Government does not agree, and that is what an appellate review is for.

Moreover, the Government wins 78.1 percent of all sentencing appeals. So that mechanism is functioning very well to ensure tough sentences.

In this proposal, judges will now have less discretion, and so the prosecutor—listen to this, Mr. President—and so the prosecutor will dictate the sentence in more and more cases. This is a dangerous development. Judicial discretion in sentencing is an accountability measure. It is an important way to check the excesses of the prosecutor. Our system of government is founded on that type of checks and balances. But by weakening the judiciary and depriving judges of the tools they need to do justice in individual cases, the proposal undermines accountability and diminishes justice.

This is not the end of the fight. It took us 10 years, 75 hearings, and extensive consultation with top judges, prosecutors, defense attorneys, and other experts to achieve the right balance between ensuring fairness and consistency in the criminal justice system and preserving judges' judicial sentencing discretion.

It is not right for us to destroy that balance through an ill-considered measure that has not received any hearings or any debate in the Senate.

It is not right to transform the entire Federal guideline system into a system of mandatory minimum sentences. Just yesterday, Justice Kennedy vigorously criticized the existing mandatory minimums as unfair and inconsistent with fundamental principles of justice.

Of course, Chief Justice Rehnquist, as I mentioned, not known to be particularly sympathetic to criminal defendants, has described this provision as doing serious harm to the basic structure of the sentencing guidelines system and impairing the ability of courts to impose just and responsible sentences.

That is what the Chief Justice has stated about these provisions in this legislation that we are about to consider, as well as Justice Kennedy, also nominated by a Republican President and not known to be a coddler of criminals or lenient in terms of sentencing.

It is a slap in the face of Federal judges, who have to apply the guidelines system on a daily basis, to include these provisions in the conference report. It is wrong for my Republican colleagues to misrepresent the nature of this provision, to suggest that it is limited to serious crimes against children, when they know more serious provisions will apply to all of the offenses. It is wrong to hold protections for children hostage in order to ram through this sweeping, ill-advised provision without a single hour or day of hearings or debate.

I will continue to pursue this issue and do everything I can to protect the reforms we have achieved on a strong bipartisan basis in the Sentencing Reform Act of 1984.

I ask unanimous consent that the conference report be defeated, that the Senate concur in the House amendment with an amendment which is the text of the conference report with a new title IV.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, reserving the right to object, if this change were allowed, as the Senator's unanimous consent request asks, it would effectively kill this bill, and he knows it. If Senators on the other side of the aisle want to vote against this conference report, they can do so.

The point is that we are prepared to vote on this bill today and to get this to the President for signature before the impending recess so that there will not be any more children subjected to what Elizabeth Smart was subjected to, or at least we can have a better set of tools to solve these problems. Therefore, we cannot agree to this request.

I ask unanimous consent that the consent be modified so that there now be 30 additional minutes of debate on the conference report, to be equally divided in the usual form, and that following that time, the Senate proceed to a vote on adoption of the conference report, with no further intervening action or debate.

Mrs. FEINSTEIN. Reserving the right to object, if I may.

The PRESIDING OFFICER. The unanimous consent request before the Senate is the request from the Senator from Massachusetts. The Senator from Utah has suggested a modification of that request.

Mr. KENNEDY. Under the rules, the Senator can either object or accede to that request. I retain my right to the floor, Mr. President.

The PRESIDING OFFICER. Is the Senator from Massachusetts calling for regular order?

Mr. KENNEDY. Regular order.

Mr. HATCH. Then I object.

The PRESIDING OFFICER. Does the Senator from Utah object?

Mr. HATCH. I object to the request of the Senator.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. I have not lost the floor.

***NOTICE***

***Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.***

## ORDERS FOR FRIDAY, APRIL 11, 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate complete its business today, it stand in adjournment until 9:30 a.m., Friday, April 11. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until 10 a.m., with the time equally divided between Senator HUTCHISON and the minority leader or their designees.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I direct this to the distinguished assistant majority leader. We are aware, and we are confident, that the majority understands that tomorrow afternoon we hope to begin our April work period.

I am sure my distinguished colleague has been visited numerous times today about people making airplanes reservations, and all kinds of different things that they have to do. We understand that everything is being done to expedite the budget, and the supplemental appropriations bill, which at least the supplemental is a must-do before we leave. We hope everyone will keep in mind the schedules we are trying to make. We will be happy on our side to work as quickly as we can.

We have a few problems that are very obvious. We have 10 hours set aside on the budge resolution when it comes back. While it would be possible to yield back some of that time, there is no way that all of it will be yielded back.

The supplemental appropriations bill is something that some Members will have to take a look at before agreeing to a time limit or final vote on it. So we have a lot to do.

I am personally disappointed that we are not going to be able to move some of those items tonight, but I understand, having been in the same position as my friend from Kentucky, that we do not always have control over what goes on.

On this side, we will be happy to cooperate any way we can, but these are very important issues and we can only give up so many rights. We have to be very careful what rights we give up, I guess is what I should say.

I repeat for the third time, we will cooperate tomorrow in any way we can short of giving up what we believe are principled matters on these two important issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky.

Mr. McCONNELL. It is certainly our hope and desire to finish both the supplemental appropriations and the budget conference tomorrow. That is the goal we are all working toward.

## PROGRAM

Mr. McCONNELL. For the information of all Senators, the Senate will be in a period for morning business tomorrow until 10 a.m. The Senate could begin consideration of any of the conference reports that may be available. The Senate may also consider the digital technology bill, S. 196. Rollcall votes are expected and a late night is expected.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:50 p.m., adjourned until Friday, April 11, 2003, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate April 10, 2003:

FEDERAL MARITIME COMMISSION

A. PAUL ANDERSON, OF FLORIDA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2007, VICE DELMOND J. H. WON, TERM EXPIRED.

EXPORT-IMPORT BANK OF THE UNITED STATES

APRIL H. FOLEY, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2007, VICE DAN HERMAN RENBERG, TERM EXPIRED.

LEGAL SERVICES CORPORATION

DAVID HALL, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2005, VICE JOHN T. BRODERICK, JR., TERM EXPIRED.

DEPARTMENT OF JUSTICE

PETER D. KEISLER, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE ROBERT D. MCCALLUM, JR.

DEPARTMENT OF THE TREASURY

ROBERT STANLEY NICHOLS, OF WASHINGTON, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE MICHELE A. DAVIS.

DEPARTMENT OF HOMELAND SECURITY

C. STEWART VERDERY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY. (NEW POSITION)

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED

WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JAMES J. LOVELACE JR., 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

EDWARD A. HEVENER, 0000
KEVIN M. KEPLER, 0000
ZEB S. REGAN JR., 0000

## CONFIRMATIONS

Executive nominations confirmed by the Senate April 10, 2003:

### DEPARTMENT OF THE INTERIOR

ROSS OWEN SWIMMER, OF OKLAHOMA, TO BE SPECIAL TRUSTEE, OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS, DEPARTMENT OF THE INTERIOR.

### DEPARTMENT OF STATE

LINO GUTIERREZ, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ARGENTINA.

ROLAND W. BULLEN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA.

ERIC M. JAVITS, OF NEW YORK, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES REPRESENTATIVE TO THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.

JOHN W. SNOW, OF VIRGINIA, TO BE UNITED STATES GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE ASIAN DEVELOPMENT BANK; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; UNITED STATES GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

### MISSISSIPPI RIVER COMMISSION

RICKY DALE JAMES, OF MISSOURI, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION FOR A TERM OF NINE YEARS.

REAR ADM. NICHOLAS AUGUSTUS PRAHL, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISIONS OF SECTION 2 OF AN ACT OF CONGRESS, APPROVED 28 JUNE 1879 (21 STAT. 37) (22 USC 642).

### MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

HERBERT GUENTHER, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM TWO YEARS.

BRADLEY UDALL, OF COLORADO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

MALCOLM B. BOWEKATY, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

RICHARD NARCIA, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

ROBERT BOLDREY, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

### NATIONAL SCIENCE FOUNDATION

BARRY C. BARISH, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION.

DELORES M. ETTER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION.

DANIEL E. HASTINGS, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION.

DOUGLAS D. RANDALL, OF MISSOURI, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION.

JO ANNE VASQUEZ, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION.

FOREIGN SERVICE NOMINATIONS BEGINNING LOUISE BRANDT BIGOTT AND ENDING KATHLEEN HATCH ALLEGRONE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

# EXTENSIONS OF REMARKS

## PERSONAL EXPLANATION

### HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. TIAHRT. Mr. Speaker, on Tuesday, April 1, I was unavoidably detained and missed rollcall vote No. 97.

Rollcall vote 97 was on passage of H. Con. Res. 109, legislation calling on all Americans to honor the men and women of the U.S. armed forces and their families, and encouraging them to display the Blue Star Banner or the Gold Star. It also called on the media to recognize the importance and symbolism of the Blue Star Banner.

Had I been present, I would have voted "yes" on this bill.

I ask that my statement appear at the appropriate section in the CONGRESSIONAL RECORD.

## A PROCLAMATION RECOGNIZING CHRISTOPHER E. ALVERSON

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. NEY. Mr. Speaker, whereas, Christopher E. Alverson has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Christopher E. Alverson has shared his time and talent with the community in which he resides; and

Whereas, Christopher E. Alverson has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Christopher E. Alverson must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award;

Therefore, I join with Troop 342, the residents of Fredericktown, and the entire 18th Congressional District in congratulating Christopher E. Alverson as he receives the Eagle Scout Award.

## RECOGNIZING THE WORK OF THE AIR LAND EMERGENCY RESOURCE TEAM "COLUMBIA" SHUTTLE DISASTER CREW

### HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. SAM JOHNSON of Texas. Mr. Speaker, I want to commend 158 men of the International ALERT Academy who selflessly spent 11 days in San Augustine County, Texas, helping with recovery efforts following the disastrous crash of the space shuttle *Columbia*. From February 2–12, 2003, these men served our country and the families of the crew at their own expense, searching through the dense forests and briars of that region. Through their thoroughness, hard work, and willing attitudes these men brought encouragement to the leadership of the incident command structure, and every fellow worker involved.

Andrew Allison, Adam Anders, Ryan Anders, Donald Anderson, Oliver Araiza, Scott Avedisian, Jeremiah Baarbe, Michael Baird, Timothy Baldridge, Marv Behr, Matthew Berryman, Christopher Bourne, Jesse Brumbaugh, Tom Burch, Daniel Caciola, Kevin Cahill, Brian Cahil, Cody Carnett, Jonathan Carstensen, Craig Cato, Jonathan Chiew, Jonathan Chu, Bryce Chun, Mel Cohen, Marc Cohen, Jesse Conklin.

Andrew Conway, Shaun Cowhard, Timothy Crist, Steven Curry, Steve Dankers, Daniel Davies, Kurt Dean, Jonathan DeHaan, Michael DeMaio, John Davolt, Paul Ellis, Jeremy Enquist, Stephen Falkenstine, Brandon Fitch, Gabriel Garriga, Richard Geiger, Andrew George, Joel George, Carter Gibson III, Joshua Grimes, Jonathan Gunter, Nicholas Harris, Nathan Hasme, Jonathan Hasty, Mark Hasty, Terrel Hendrich.

Robert Heren, David Herring, William Hicks, Charles Hitchcock, Justin Horsman, Logan Howell, Jeff Huggins, John Hurst, Earl Jantz, Dick Jarrell, David Jodrey, Jeremy Johnson, Connor Jones, Kevin Jones, Lorin Kaney, Stephen Keating, Matthew Kinkade, Carl Kinz, Seth Kiser, Jonathan Knight, David Kress, Stephen Lacy, Jim Lampman, Kuan-Hui Lee, Emmanuel Lenau, Benjamin Longwell.

Jason Luksa, Mark MacLurg, Jonathan Mahoney, Greg Mandreger, Timothy Martin-Vegue, James Mayers, Stephen McKerracher, James Meek, Peter Melton, Steven Menzel, Jay Miller, Jeremy Minter, Merritt Mitchell, Russell Moulton, Zachariah Munger, Michael Muscanero, Adam Nunez, Joshua Oathout, Kyle O'Donnell, John O'Donnell, William Orr, Samuel Ortiz, Christopher Overby, John Owen, Micah Parrish, Stephen Parrish, Marc Payant.

David Pennywell, Jonathan Popowich, Michael Potter, Stephen Powers, Aaron Prentice, Jonathan Radford, Simon Rawson, Justin Reyes, Vladimir Robles, Josiah Savage, Clifford Scott, Scott Shetler, Doug Simmons, David Sisson, Phillip Smith, Benjamin Snyder, Tryg Solberg, Samuel Spear, Michael Spillman, James Spriggs, Stephen Stiller, Andrew Strain, John-David Sullivan.

Nathanael Swanson, Adam Switzer, Randy Switzer, Joel Talley, Shawn Tallman, John Tanner, Joshua Tanner, Justin Tanner, Andrew Thompson, Brett Thompson, Daryn Thompson, David Thornton, Robert Thurston, Abraham Timler, Roy Turner, Joshua Uecker, Nathan Walker,

Samuel Walker, Patrick Walsh, Joshua Watkins, Bruce West, Joseph West, Robert Wheeler, III, Mark Whitehead, Amadi Williams, Spencer Wolf, Jay Wright, Brian Yoder, Philip Yoder, andMark Zeller.

## TRIBUTE TO MATTHEW J. RYAN, A LEGACY OF PUBLIC SERVICE, COMPASSION, AND STATESMANSHIP

### HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to honor the memory of Speaker Matthew J. Ryan, a 21-term member of the Pennsylvania House of Representatives and second longest-serving Speaker in state history. Few Commonwealth leaders have matched the record of public service attained by Speaker Matthew J. Ryan. As one of Pennsylvania's finest public servants, he truly left this world a better place.

Speaker Ryan, a former First Lieutenant in the U.S. Marine Corps, was an attorney by profession. He was elected Speaker for the first time in 1981. Throughout his distinguished tenure, Speaker Ryan was known and lauded by his colleagues from both sides of the aisle for the nonpartisan, fair manner in which he presided. Those of us who had the privilege to work with him on behalf of our mutual constituency knew him to be a man of great passion, compassion, and principle who worked with skill and determination for the best interests of the Commonwealth of Pennsylvania and the Nation. I looked to him for guidance on many occasions and could always rely on him for good solid advice on issues affecting our mutual constituencies.

Speaker Ryan would readily tell the House freshmen that the qualities of an outstanding legislator are "skill at listening and understanding, respecting others'' strengths and accepting their limitations, commitment and courage, and learning the art of compromise.''

He did not seek public service for fame or glory, he sought simply to help people. In an era of cynicism towards those in public life, Speaker Ryan reminded us of why we serve. His legacy will endure not only in the principles he stood for and the improvements he brought to his beloved Pennsylvania, but also his wonderful family, his wife, Judge Patricia Jenkins and children. They, too, carry Matt Ryan's commitment to public service and community.

Speaker Ryan will long be remembered in the halls of the Pennsylvania House of Representatives. It is a better institution because of his service and leadership. More importantly, he was an effective public servant and improved the lives of thousands of families in his state and beloved Delaware County.

Mr. Speaker, our region has lost a great leader, and I have lost a good friend. Matt Ryan exemplified the spirit of service that has made this country great. It is proper to remember and honor a man of such worth and character with great respect for what he stood for.

## RECOGNIZING NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

### HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mrs. McCARTHY of New York. Mr. Speaker, I rise today in recognition of National Former Prisoner of War Recognition Day.

Our country's former prisoners of war are national heroes. Their service placed them in harm's way, causing their capture and imprisonment. They have suffered and sacrificed a great deal to ensure our freedom and national security.

These courageous Americans who suffered through often horrific and demeaning conditions in wars, including Vietnam, the Persian Gulf War and now Operation Iraqi Freedom, have my greatest appreciation and respect. I also extend my gratitude to family members of former POWs who stood by and supported their loved ones during such excruciatingly difficult times.

Today's recognition of former POWs is particularly appropriate in light of the recent rescue of Pfc. Jessica Lynch. Pfc. Lynch was captured on March 23, along with 11 other U.S. soldiers from the 507th Maintenance Company. On April 2, in a dramatic military operation, she was rescued from a hospital in Iraq, and just two days ago was reunited with her family.

The heroism of Jessica Lynch and those who served our country before her signifies the high price of liberty.

As we recognize the former POWs that served our nation, I also want to offer my thoughts and sympathies to the family members of those who lost a loved one or have a loved one who is missing in action from the ongoing war in Iraq as well as past military conflicts.

On behalf of the people of the 4th Congressional District of New York, thank you to all former POWs for your brave service to America. To those who are still being held, we all pray for your safe rescue and that you come home soon.

## EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT, 2003

SPEECH OF

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 3, 2003*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1559) making emergency wartime supplemental appropriations for the fiscal year ending September 30, 2003, and for other purposes:

Mr. UDALL of New Mexico. Mr. Chairman, today we are considering the largest supplemental appropriations bill ever brought before the U.S. Congress—a bill totaling $77.9 billion. We live in extraordinary times, Mr. Speaker, so it is no surprise that we are considering a bill requesting an extraordinary amount of supplemental spending. What is extraordinary, however, is that in light of the war on terrorism, the war in Iraq, and the simultaneous obstacles we face in ensuring the security of our citizens here at home, this supplemental bill includes only $4.2 billion for homeland security.

Mr. Speaker, our first responders are already under great pressure ensuring the safety of our citizens and I am sure we would all applaud them for their hard work and effort. But our applause is not enough. Our applause does not help them effectively protect our nation. Our applause does not help our first responders become any more prepared for a chemical or biological attack than they, and our nation, already are. Further exacerbating the problem for our first responders is the fact that many men and women who are now overseas either in Iraq, or in support of the military action in Iraq, are reservists or members of the National Guard who are police officers and firefighters when not on active duty. As a result, many of our local police and fire departments are experiencing shortages in the personnel they have available.

We must provide more funding for these men and women. For that reason, I opposed the Rule for the debate on the supplemental spending bill. This rule prohibits Mr. OBEY from allowing his important amendment that would increase funding by $2.5 billion for Homeland Security programs. Programs that are critical to our nation's security. The Obey amendment would provide critically needed funds for military facilities, nuclear security facilities, port and infrastructure security, and much-needed funds in the amount of $1.2 billion for state and local first responders. It is a shame that Mr. OBEY is not allowed to offer his amendment, but it is an even bigger shame that this bill shortchanges our needs for security here at home.

That being said, I do believe this is an important bill. I believe that it provides the critical resources to support our men and women currently fighting in the field. Just as we must support our first responders, so too must we support the men and women courageously fighting overseas right now, and we must do so by providing additional funding that will help them conduct their missions. I am hopeful that these funds for those currently in harm's way will help bring a speedier resolution to the operations in which they are participating, and will help contribute to their safety and the speed with which they are able to return to their loved ones back here in the United States.

Mr. Speaker, I know that my thoughts, and the thoughts of my colleagues are, and should be, with the soldiers fighting overseas. But as we continue to keep them in our thoughts, we must not neglect the security of our nation at home. I hope that Members will work across party lines to provide more funding for our security at home as this bill returns from the conference committee. After all, don't we want to provide the best security possible for our soldiers when they return home? I, for one, certainly do. And I believe my colleagues should as well.

## BOULDER CITY FIRE DEPARTMENT

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. PORTER. Mr. Speaker, I rise today to congratulate the Boulder City Fire Department for obtaining a Class 2 Insurance Service Offices (ISO) rating. The ISO Class 2 rating is obtained by less than one percent of the fire departments in the county and is made possible by the dedication and skill of Boulder City Fire Chief Dean Molburg and the firemen of Boulder City.

As a former Mayor of Boulder City, and its current Congressman, I am proud that Boulder City has been recognized for its excellent fire coverage. The courage and commitment to public service shown every day by Boulder City firefighters is an example for all of us. They, and all Nevada first responders, have my thanks and full support.

## RECOGNIZING ASHWAUBENON VILLAGE PRESIDENT TED PAMPERIN

### HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. GREEN of Wisconsin. Mr. Speaker, today before this House I'd like to recognize and honor Ashwaubenon Village President Ted Pamperin, whose exceptional leadership and commitment to the citizens of Brown County have strengthened our local communities, and set a superb example for our future leaders.

Ted's dedicated service began in 1971, when he was elected Ashwaubenon town supervisor. Since that time, Ted has held a wide range of offices, and served on virtually every committee and board in Ashwaubenon.

As a friend and colleague, I am sad to see Ted leave. However, I know his constituents are very grateful for the tremendous contributions he has made to our area throughout his tenure. Ashwaubenon is a strong community with an exceptional work force, a proud history, and a wholesome tradition. There's no question Ted has kept Ashwaubenon on that path, and greatly enhanced the quality of life for folks all across Brown County.

Mr. Speaker, it is an honor and pleasure to recognize today the extraordinary service of Ashwaubenon Village President Ted Pamperin. On behalf of my constituents, we say thank you, and we wish him all the best in his future endeavors.

## IN MEMORY OF INGERBORG CARTIER HENRY

### HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mrs. CHRISTENSEN. Mr. Speaker, a blessed woman from my district in the U.S. Virgin Islands, whose worth was far above rubies left this temporary earthly residence and went home.

I rise today to speak of Mrs. Ingerborg, ''beautiful daughter'', Agatha—''the good, the kind'', Cartier Henry, who was above all else a mother, to her nine wonderful children who have learned from her to dedicate their lives to caring and serving. She also ''mothered'' everyone who grew up in Gallows Bay, in the Seventh Day Adventist Church, her grands, great-grands and countless others.

Ingerborg Cartier Henry was born to Eugenie Phaire Cartier and Valdemar Cartier on February 6, 1911 on the island of St. Croix. She was educated under both the Danish and American public school systems.

She joined the Seventh-day Adventist Church in 1929, when she was baptized by Pastor C. G. van Putten. On December 21, 1932, she married Irvin Henry. To this union, nine children were born.

Mrs. Henry was an excellent cook, pastry maker and baker. Some people still talk about her black bread. She loved to entertain, camp, and travel. In the early hours of the morning of March 28, 2003, she quietly passed to her rest in her home in Gallows Bay where she resided for 61 years.

Mrs. Henry, Miss Inger, Mother Henry, Cousin Inger, Auntie Borg, Borgie, Mother will be greatly missed. We will always cherish her memory. Her husband, her children and all of us call her blessed. May she rest in eternal peace.

## HONORING JACK ECKERD ON HIS 90TH BIRTHDAY

### HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor Jack Eckerd, a man who has dedicated his life to public service as he celebrates his 90th birthday.

Jack Eckerd's life is a testament to what one can achieve with hard work, dedication, and perseverance.

After flying air cargo flights for the U.S. Army Air Corps during World War II, Mr. Eckerd opened a now well known chain of drug stores in the Tampa Bay area. These stores, named after their founder, were the first self-service drugstores in Florida. Many of the concepts he instituted at his stores, such as senior citizen discounts and two-for-one photo processing, have become standard practice in drugstores across the country.

Jack Eckerd's story is more than that of veteran, successful businessman, and devoted husband to his wife, Ruth. Mr. Eckerd quickly became involved in his community after founding Eckerd drugstores. He contributed his time, talents and money to help organizations such as the YMCA, United Way, and Morton Plant Hospital in my congressional district in Clearwater, Florida. He also founded, in 1968, Eckerd Youth Alternatives, an organization dedicated to finding innovative solutions to help troubled youths. Eckerd Youth Alternatives, which he considers his proudest accomplishment, today is one of the nation's leading and most respected programs for troubled young people.

Jack Eckerd ran for the U.S. Senate in 1974 and later co-chaired former Florida Governor Ruben Askew's study on management and efficiency, which found more than $100 million in state budget waste. President Gerald Ford appointed Mr. Eckerd to head the General Services Administration from 1975 to 1977. President Ford, commenting on Mr. Eckerd's tenure, said ''Jack ran GSA cleaner than a hound's tooth.'' He later was appointed by then Governor and now Senator BOB GRAHAM—the man who defeated him in his Senate race-as chairman of the board of Prison Rehabilitative Industries, a state program to provide jobs and skills to inmates and to make such institutions self-supporting. Since his retirement in 1996, Jack Eckerd has remained involved in his community.

Mr. Eckerd's financial generosity is legendary. He and his family have given millions of dollars through the years to improve education, promote the arts, and encourage the health and well-being of our fellow citizens. Jack Eckerd has received many awards for his public service and philanthropy over the years. The greatest honor he can receive, however, is to know that he has had a profoundly positive impact on those whose lives he has touched.

Mr. Speaker, I am proud to thank Jack Eckerd for his life's work and congratulate him as he celebrates his 90th birthday on May 16. I wish him and his family many years of continued health and happiness.

## CONCERNING THE OUTBREAK OF SEVERE ACUTE RESPIRATORY SYNDROME (SARS) IN TAIWAN

### HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. ISSA. Mr. Speaker, I rise today to express my concern about the outbreak of Severe Acute Respiratory Syndrome (SARS) in Taiwan. Despite the World Health Organization's categorization of the disease as ''a worldwide health threat,'' it has refused to help Taiwan during this time of need.

What the WHO has failed to realize is that ''worldwide health threats'' do not remain neatly behind political borders. Taiwan may not yet be a member of the WHO or a recognized independent state by some countries, but that does not make SARS any less of a threat to the Taiwanese people.

This crisis underlines the need for Taiwan to be granted observer status in the WHO, much like their status in the World Trade Organization. Global health risks must be addressed wherever they may occur and regardless of the political environments surrounding them. We should not expose the Taiwanese people to unnecessary health risks simply because their status in some intergovernmental organizations is uncertain.

I urge my colleagues to remain outspoken in their support of Taiwan's bid to gain observer status in the WHO so that dangerous diseases like SARS may be battled wherever they occur.

## THE LEGACY OF DAVID BLOOM

### HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. BONILLA. Mr. Speaker, I rise to recognize the legacy of NBC's David Bloom. All across America as people mourn the loss of life among our men and women in uniform, we also mourn the loss of David. Over the years he touched so many lives with his dramatic, cutting-edge reporting.

Prior to my time in the U.S. Congress I spent 15 years in the broadcast news business. Today my wife continues in that field. The two of us watch television news reporters with a special eye. David was in a league of his own. He always brought a flair, an insight, an extra dimension to his stories that made you feel the impact. There were times it felt like you had been on a roller coaster after watching his reports. And you always felt better informed.

David always set the standard for covering breaking news whether it was the Clinton scandal or the current war. Just when you thought it was impossible to break new ground in broadcast news, David would do it. His Bloommobile rides through Iraq put Americans on the edge of their seats each night. No other reports on television compared to his. Viewers were better served because they got to feel the peril of our troops and the ruggedness they experienced. I remember discussing his reports at the dinner table with family and friends. All agreed his work was the best and couldn't wait to see his next report. David was a rare talent.

David's now in a different place. I'm sure he's trying to figure out a way to get a satellite signal set up so he can send us another report. We wish he had a way to reach us. It would be the most incredible moment ever on television. Appropriately, it would carry his name.

## TRIBUTE TO MR. MURRAY SISSELMAN: ''MISTER EDUCATION'' IN MIAMI-DADE COUNTY

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. MEEK of Florida. Mr. Speaker, on Tuesday, March 11, 2003, our country lost a true giant in the profession of teaching our children.

Murray Sisselman was a man of great intellect, poise and determination. As President of the United Teachers of Dade for over a quarter century, he was an innovator who played a key role in the operations and policies of the nation's fourth largest school system, helping our schools adapt to a changing workplace, a changing economy, and an influx of immigrants from Cuba, Haiti, Nicaragua and dozens of other countries.

A native New Yorker, Murray Sisselman came to Miami in December, 1949. He attended the University of Miami for his undergraduate studies, and continued his graduate studies at NOVA University, where he received a Master of Science Degree as an Educational Specialist.

Like many great leaders of large organizations, Murray Sisselman started out at the bottom and worked his way to the top. He began his career as a classroom teacher, where he honed his appreciation for the importance of teachers who are well trained and highly motivated. He was a great believer in continuing education so that teachers could improve their skills and keep up with changes in their subjects and methods, and he championed many innovative programs in this area.

As President of UTD, Murray Sisselman never lost sight of the principles that guided his leadership:

Providing a world-class education to every child, regardless of economic circumstances.

Defending and enhancing the rights, opportunities and classroom conditions for each individual member through collective bargaining.

Because of Murray Sisselman's lifelong work, the United Teachers of Dade has been able to forge coalitions with parents, businesses and organized labor to the advantage of students and the betterment of public education and our entire community.

Mr. Speaker, I know that all my colleagues will join me when I say that our hearts go out to his wife, Ludmila; his children David, Jagger and Helen; and his grandchildren Sarah and Lina.

Murray Sisselman was an education pioneer, and we celebrate his life. He set a standard of service and a commitment to education that will endure in our community for decades to come, and we are better off for his efforts.

## SUPPORTING RACIAL DIVERSITY

**HON. WILLIAM J. JEFFERSON**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. JEFFERSON. Mr. Speaker, I submit the following Brief for the RECORD.

[No. 02–241]

IN THE SUPREME COURT OF THE UNITED STATES

BARBARA GRUTTER,
*Petitioner,*

LEE BOLLINGER, *et al.,*
*Respondents.*

On Writ Of Certiorari To The United States Court of Appeals For the Sixth Circuit

BRIEF OF THE HARVARD BLACK LAW STUDENTS ASSOCIATION, STANFORD BLACK LAW STUDENTS ASSOCIATION AND YALE BLACK LAW STUDENTS ASSOCIATION AS *AMICI CURIAE* SUPPORTING RESPONDENTS

### INTEREST OF *AMICI CURIAE*

The Black Law Students Associations of Harvard Law School (''Harvard''), Stanford Law School (''Stanford'') and Yale Law School (''Yale'') (collectively, ''the BLSAs'') submit this brief as *amici curiae* in support of Respondents, urging this Court to affirm the Sixth Circuit's ruling that the University of Michigan Law School (''Michigan'') has a compelling interest in promoting racial diversity in its student body, and that Michigan's admissions policy is narrowly tailored to serve that interest. The BLSAs are chapters of the National Black Law Students Association, a nonprofit student organization with over 200 chapters and 6,000 members that is dedicated to promoting the academic and professional goals of black law students. The BLSAs' members hail from many different ideological, political, religious, national, ethnic and socio-economic backgrounds. Major activities of the BLSAs include projects relating to law school admissions, alumni affairs, professional recruitment, community service and academic support, often in partnership with other student organizations and their respective law school administrations. The alumni of the BLSAs rank among the most distinguished graduates of their institutions, and are currently serving as respected litigators, judges, law professors, legislative officials and principals of major corporations and non-profit organizations. These graduates have been pioneers in integrating the legal profession, and have helped the bar and the bench become more responsive to the needs of a society that is rapidly growing more diverse.

The current membership of the BLSAs includes students who are beneficiaries of law school policies that take race into account as one factor among many in admissions decisions. Like all of their classmates, the students who make up the BLSAs have received a broader, more intellectually stimulating education because they have had the opportunity to study and socialize in academic environments that are enriched by racial diversity. The BLSAs have an interest in this case because they are committed to maintaining racial diversity in legal education and in the legal profession.

### SUMMARY OF ARGUMENT

Racial diversity in a student body improves the quality of legal education. Such diversity is especially critical for ''elite'' law schools, such as Harvard, Michigan, Stanford and Yale. These law schools share a broadly defined public mission to train graduates for leadership and service, and to instill within them zeal to confront enduring dilemmas in American law and society. Recent social science studies have documented in detail how diversity broadens the scope of campus discourse and teaches lessons in tolerance and cooperation. Diversity also helps shatter lingering stereotypes regarding supposed ideological uniformity within racial groups. As current students at elite law schools, the BLSAs' members are uniquely positioned to explain some of the significant educational advantages attributable to the racially inclusive environments found at their institutions. These students have participated in and learned from campus discourse and debates that are not likely to occur in racially homogenous academic settings.

Racial diversity is similarly vital to the credibility and legitimacy of the legal profession. Although full integration of the profession remains a distant goal, elite law schools have been uniquely instrumental in preparing minority students—and especially black students—for leadership positions in the bar and on the bench. Without the ability to consider race in admissions decisions, these schools will fall short of fulfilling their unique public missions.

Race-neutral alternatives are not effective substitutes for race-conscious admissions policies. If elite law schools are not allowed to consider race as one factor in admissions, the representation of black students at elite law schools will drastically diminish. Moreover, as demonstrated in California and Texas, and as shown in empirical studies, the alternative programs that have been touted as promising replacements for race-conscious admissions policies do not produce the racial diversity that is necessary for elite law schools to train future American leaders.

### ARGUMENT

I. RACIAL DIVERSITY IS NECESSARY FOR ELITE LAW SCHOOLS TO FULFILL THEIR PUBLIC MISSION OF TRAINING STUDENTS FOR LEADERSHIP POSITIONS AND INTEGRATING THE LEGAL PROFESSION

This Court's equal protection jurisprudence, from *Regents of University of California* v. *Bakke*, 438 U.S. 265 (1978), through *Adarand Constructors, Inc.* v. *Peña*, 515 U.S. 200 (1995), makes clear that the use of racial classifications must serve a ''compelling governmental interest,'' and that race-conscious policies used to achieve this end will pass muster under the strict scrutiny standard only if they are ''narrowly tailored.'' *Adarand*, 515 U.S. at 202. The BLSAs emphasize the compelling interest of Michigan (and the nation) in the educational benefits of law school admissions policies that take race into account. As law students at Harvard, Stanford and Yale, the current members of the BLSAs have a unique perspective on these benefits, for they have witnessed first-hand the positive effects of a racially diverse student body.

Since the late 1960s and early 1970s, most elite law schools—Harvard, Stanford and Yale in particular—have demonstrated a robust commitment to ensuring that their student bodies are racially diverse. The mission of these elite law schools is to train students not simply to become practicing attorneys, but more broadly to tackle persistent social problems, to advocate reform of the justice systems in the United States and abroad, to expand the intellectual frontiers of legal scholarship and to protect the rights and liberties of the nation's most defenseless individuals. In other words, these institutions have staked out a bold public mission, and have defined one of their goals as providing visionary leadership for the legal profession and the nation. Moreover, these law schools have been remarkably successful in catapulting their graduates into prominent positions in private practice, public service, business and academia. As the nation becomes increasingly diverse, these schools will be unable to realize their public missions without a student body that resembles the larger multiracial society they seek to serve.

A. Racial Diversity in Legal Education Prepares Students at Elite Law Schools To Meet the Challenges of Our Multiracial Democracy

1. Racial Diversity Enhances the Quality of Legal Education by Improving Academic Interactions

Over half a century ago, in a decision that struck down racial exclusion in admissions policies at the University of Texas Law School (''Texas''), this Court recognized that ''although the law is a highly learned profession, * * * it is an intensely practical one. The law school, the proving ground for legal learning and practice, cannot be effective in isolation from the individuals and institutions with which the law interacts. Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned.'' *Sweatt* v. *Painter*, 339 U.S. 629, 634 (1950). The differences between the Texas admissions policy in 1950, which this Court considered in *Sweatt*, and the admissions policies at Michigan before the Court today are fundamental and dispositive. Texas sought to deny the petitioner in *Sweatt*, as well as each of the white law students it admitted, any opportunity to study law in an environment that promoted mutual respect and learning across racial lines. In contrast, the purpose of Michigan's admissions policies (and the similar policies at many other elite law schools) is to enhance the educational experience of all students by enrolling sufficient numbers of minority students to facilitate the sorts of interracial interactions that help produce lawyers capable of leadership in a multiracial society. Before the 1950s, this Court and our profession played a shameful role in maintaining a segregated America. Nothing in the Constitution requires a return to that era, and nothing in the Constitution prohibits Michigan's effort to fulfill its public mission by training lawyers in a racially diverse academic environment.

Today, virtually all law schools have recognized that enrolling significant numbers of minority students improves the quality of legal education. Although the advantages of racially integrated academic settings have often been praised in qualitative, abstract terms, recent social science studies have provided empirical confirmation that racial diversity on campus does in fact produce tangible educational benefits. Racial diversity fosters an intellectually challenging environment and encourages discussions that are attuned to contemporary legal, social and political issues. Such diversity also instills in students core democratic values such as cooperation, tolerance and affinity for reasoned deliberation.

For example, a recent survey of law students at Harvard and Michigan documented how racial diversity enhances the intellectual and educational experiences of students. *See* Gary Orfield & Dean Whitla, *Diversity Challenged: Evidence on the Impact of Affirmative Action* 143–74 (2001). In the Orfield and Whitla study, 68 percent of Harvard students and 73 percent of Michigan students responded that racial diversity in the classroom enhanced their ''think[ing] about problems and solutions in class.'' *Id.* at 156. Further, nearly two-thirds of all respondents to the Orfield and Whitla survey reported that diversity enhanced the quality of *most* of their law school classes. *See id.* at 160. Over half of the students surveyed at both schools responded that even racial controversies on campus yielded positive educational outcomes, because such events encouraged them to rethink their values. *See id.* at 162–63. Overall, 89 percent of Harvard students and 91 percent of Michigan students surveyed indicated that racial diversity in their student body represented a positive aspect of their educational experiences. *See id.* at 160. In sum, this study demonstrates empirically that a racially diverse student body enhances the training of future leaders of a multiracial society by preparing them to work together, to debate one another and even to disagree with each other respectfully.

Additional social science studies overwhelmingly support the conclusions reached in the Orfield and Whitla study and further establish that racial diversity in higher education provides distinct and measurable benefits to students. For example, William G. Bowen and Derek Bok, former presidents of Princeton University and Harvard University, respectively, have produced an exhaustive study of more than 45,000 students of all races who entered academically selective universities from 1976 to 1989. That study demonstrates, through a wealth of empirical evidence, that diversity in the classroom improves the quality of learning for all students. See Bowen & Bok, supra; see also David L. Chambers et al., *Michigan's Minority Graduates in Practice: The River Runs Through Law School*, 25 Law & Soc. Inquiry 395 (2000).

The integration of law school classrooms is especially critical because issues of race continue to be inextricably linked to so many aspects of the legal system and civil society. See generally Elizabeth A. Anderson, *Integration, Affirmative Action, and Strict Scrutiny*, 77 N.Y U. L. Rev. 1195 (2002). Law school students and graduates are called upon to address enduring American dilemmas such as disparate administration of criminal justice, unequal access to health care and educational resources, and discrimination in employment. There can be no understanding of such issues without a nuanced appreciation of the persistent, though sometimes subtle, influence of race in American life.

2. Racial Diversity in Legal Education Helps to Dispel Pernicious Stereotyping

As Justice O'Connor has explained in the similar context of the influence of gender: ''[I]n certain cases a person's gender and resulting life experience will be relevant to his or her view[s]'' because ''like race, gender matters.'' *JEB* v. *Alabama ex. rel. TB*, 511 U.S. 127,148–49 (1994) (O'Connor, J., concurring). Although life experiences shaped by race affect the views and outlooks of minorities, the common influence of race has never produced a single, monolithic mindset within racial groups because individuals respond to life experiences in varying ways.

Race-conscious admissions policies further the broad, public mission of elite law schools by creating academic environments in which it is patently apparent that racial minorities possess a multitude of differing views, beliefs and experiences. Law schools that admit a racially diverse mix of students encourage, at least implicitly, academic and social interactions that expose the fallacy of racial stereotyping, forcing students to examine subconscious prejudices and to shed narrow-minded preconceptions. Detractors of race-conscious admissions policies often insinuate that such policies wrongly use race as a proxy for a particular viewpoint. *See, e.g.*, Brief for United States as *Amicus Curiae* at 20. To the contrary, such policies actually help to destroy the myth that individuals should be presumed to share common perspectives on any given subject simply because they belong to a certain racial group. The staggering intellectual diversity that exists within minority groups is in fact highlighted in racially diverse academic settings. *See* Harry T Edwards, *Race and the Judiciary*, 20 Yale L. & Pol'y Rev. 325, 329 (2002) (rejecting the suggestion that race can be viewed as a proxy for ideology and noting the broad range of ideological perspectives held by black legal scholars).

Properly understood, then, racial diversity in law school admissions is premised on an understanding made explicit by this Court: ''If our society is to continue to progress as a multiracial democracy, it must recognize that the automatic invocation of race stereotypes retards that progress and causes continued hurt and injury.'' *Edmonsville* v. *Leesville Concrete Co.*, 500 U.S. 614, 630–31 (1991). Racially mixed academic settings help to dispel the misconception that racial identity necessarily implies a uniform set of thoughts, attitudes and beliefs.

3. The Benefits of Racial Diversity Have Been Witnessed First-Hand by the Current Membership of the BLSAs

The current membership of the BLSAs has directly witnessed the ways in which a diverse academic environment creates a broader and richer understanding of the law, and can speak with conviction born from experience concerning the concrete advantages of racial diversity at their respective law schools. Race is relevant to at least three categories of legal questions. First, race is at the heart of many of this Court's most significant decisions, from *Dred Scott* v. *Sandford*, 60 U.S. 393 (1856), to *Brown* v. *Board of Education*, 347 U.S. 483 (1954). Second, race often lurks prominently in the subtext of a legal question even when it is not directly implicated in the dispositive issues. Analysis of capital punishment, for example, often proceeds in light of racial disparities in sentencing. Third, the issue of race often emerges unexpectedly, coloring consideration of legal issues that would appear on first glance to be wholly self-contained. This Court's recent review of the constitutionality of school vouchers, for example, may have centered on First Amendment Establishment Clause concerns, but necessarily required a recognition of how racial minorities who reside in inner cities are affected by such programs. *See Zelman* v. *Simmons-Harris*, 122 S. Ct. 2460, 2480 (2002) (Thomas, J., concurring) (noting decision's impact on educational opportunities for underprivileged minority children).

Often, the BLSAs' members provide unique perspectives that dramatically transform the tenor of classroom discussions. Notably, Professors Orfield and Whitla found that law schools introduce many students to significant interracial contact for the first time. *See* Orfield & Whitla, *supra*, at 156 (noting that 50 percent of white Harvard and Michigan students surveyed reported ''very little'' to ''no'' interracial contact prior to attending law school; only six percent of black and two percent of Latino students had similar responses). However, black law students are not admitted to elite law schools simply to enhance the education of white law students by reminding them of the continuing effect of race on the lives of black Americans. Black law students themselves receive a better legal education when they are immersed in a diverse student body. That was the premise of this Court's holding in *Sweatt* v. *Painter*. Black students also benefit from the wide range of views held by students of all races and are prompted to reexamine their own preconceived notions. Further, learning in a racially mixed setting prepares the BLSAs' current members to enter the legal profession, where 50 years after *Sweatt* it continues to be true that ''most of the lawyers, witnesses, jurors, judges and other officials with whom [they] will inevitably be dealing'' are likely to be white. *Sweatt*, 339 U.S. at 634.

B. Black Graduates Are Fulfilling the Public Mission of Elite Law Schools

It is axiomatic that racial diversity in legal education furthers the integration of the legal profession. Just as diversity in law school student bodies undoubtedly improves the nature and quality of learning, greater racial inclusiveness in the bar and on the bench provides dramatic benefits. Considered individually or together, these beneficial effects amount to a compelling governmental interest justifying race-conscious law school admissions policies. The advantages of greater diversity in the legal profession are considered here with an eye toward black graduates of elite law schools, and with respect to three particular areas of the profession: the judiciary, corporate law firms and public interest work.

As discussed above, elite law schools such as Harvard, Michigan, Stanford and Yale have identified the preparation of students to assume leadership positions in America and to solve enduring social problems as core components of their missions. Because these schools provide exceptional legal training and other critical resources such as access to prestigious alumni, they have functioned—and will continue to function—as gateways to prominent positions within the legal profession. *See* Samuel Issacharoff, *Can Affirmative Action Be Defended?*, 59 Ohio St. L.J. 669, 684 (1998) (noting that elite public and private law schools ''train a disproportionate share of the future political leadership of the state and nation''). Consider, for example, that each member of this Court holds a law degree from an elite law school: Harvard (4), Stanford (2), Columbia, Northwestern and Yale. The black graduates of elite law schools have leveraged the intellectual training and academic credentials they have received, along with relationships built with professors and alumni, to achieve remarkable success in the law, electoral politics and other venues that were until recently virtually closed to racial minorities in America. Moreover, these graduates have demonstrated a remarkable dedication to serving the public interest.

It is manifest, however, that the legal profession remains far from integrated. *See* Elizabeth Chambliss, *Miles to Go 2000: Progress of Minorities in the Legal Profession vi* (2002) (''Minorities in general continue to face significant obstacles to 'full and equal' participation in the profession * * *.'') Further progress toward racial inclusiveness is threatened if the elite law schools do not continue to train significant numbers of racial minorities. If the legal profession regresses toward racial homogeneity, public confidence in the justice system will suffer. *See* Mark Hansen, *And Still Miles to Go,* 85 A.B.A. J. 68, 68 (1999) (''The makeup of the legal profession is one of the factors people look to in forming their perceptions of whether the justice system will treat them fairly * * *.'').

1. The Judiciary

Although the bench is far from fully integrated, even the limited strides toward inclusiveness to date have improved the judiciary's ability to grapple with difficult legal questions. *See* Edwards, *supra,* at 329 (''[R]acial diversity on the bench can enhance judicial decision making by broadening the variety of voices and perspectives in the deliberative process.''); *see also* Sandra Day O'Connor, *Thurgood Marshall: The Influence of a Raconteur,* 44 Stan. L. Rev. 1217, 1217 (1992) (''Justice Marshall imparted not only his legal acumen but also his life experiences, constantly pushing and prodding [his colleagues] to respond not only to the persuasiveness of legal argument but also to the power of moral truth.''). Recognizing that racial diversity on the bench improves the quality of judging does not require the acceptance of ''some mythical black perspective,'' but rather the plain understanding that ''life experiences have some bearing on how [judges] confront various problems.'' Edwards, *supra,* at 329.

Significantly, black graduates from elite law schools have helped to integrate the judiciary, including the Supreme Court. For example, eight out of the 17 black judges currently sitting on the federal circuit courts graduated from an elite law school. *See* Federal Judges Biographical Database, at http://air.fjc.gov/newweb/jnetweb.nsf/fjc__bio. Of the 80 black federal district court judges currently sitting, over one-third attended an elite law school. *See id.* At least 30 black judges have graduated from Harvard alone. *See* Bowen & Bok, *supra,* at 284.

The presence of black judges on the bench promotes public confidence in the judicial system. Trust in that system's fairness is integral to the public's willingness to rely on the courts for resolution of civil disputes and oversight of criminal proceedings. *Cf.* Sandra Day O'Connor, *The Effects of Gender in the Federal Courts: The Final Report of the Ninth Circuit Gender Bias Task Force,* 67 S. Cal. L. Rev. 745, 760 (1994) (''When people perceive bias in a legal system, whether they suffer from it or not, they lose respect for that system, as well as for the law.'').

The racial composition of the judiciary represents a significant factor in the public's estimation of whether judges will dispense justice fairly. *See* Sherrilyn A. Ifill, *Racial Diversity on The Bench: Beyond Role Models and Public Confidence,* 57 Wash. & Lee L. Rev. 405, 408–09 (2000) (explaining that a diverse bench promotes fairness in the judicial system). Further, numerous studies have demonstrated that a dearth of minority judges on the bench encourages the view that the judiciary is systemically biased against minority litigants and defendants. For instance, a 1999 study revealed a perception among many citizens, including 68 percent of blacks, that the judicial system treats blacks unfavorably as compared to whites. *See* David B. Rattman & Alan J. Tomkins, *Public Trust and Confidence in the Courts: What Public Opinion Surveys Mean to Judges,* Ct. Rev., 4 (1999). Notably, 43 percent of whites and 42 percent of Hispanics surveyed agreed that blacks are treated less favorably than whites in the courts. *See id.*

2. Corporate Law Firms

Corporate law firms provide representation in court and advice regarding business decisions for the world's largest and most influential business entities. The racial integration of corporate law firms helps demonstrate that after centuries of racial discrimination in the workplace, employment opportunities in the private sector are now being made available to individuals of all races. Further, a racially inclusive workforce is necessary for law firms and the corporations they counsel to respond creatively to the challenges of a multiracial society.

Graduates of elite law schools disproportionately fill positions in corporate law firms. Black lawyers who seek employment at these firms often find that a degree from an elite law school is a critical credential that is necessary to ''counteract the lingering but nevertheless powerful effects of the pervasive myth of black intellectual inferiority.'' David B. Wilkins, *Rollin' On the River: Race, Elite Schools, and the Equality Paradox,* 25 Law & Soc. Inquiry 527, 533 (2000). A survey conducted by Professor Wilkins in 1995 indicated that in New York City and Washington, DC alone, ''more than 50% of all black associates hired graduated from either Harvard or the top schools [Columbia, NYU, or Georgetown] in the local market,'' compared with a ''corresponding number for whites [of] 40.4% in New York and 23.2% in Washington, DC'' *Id.* at 534. The numbers are even more striking for black partners. In 1993, 77 percent of black partners were elite law school graduates, and 47 percent were Harvard or Yale graduates. *See id.* at 534–35.

3. Public Service

Graduating lawyers ''who will see the law as a call to service'' is a fundamental component of the public missions of elite law schools. *Stanford Handbook, supra,* at 1. Black graduates and other minority alumni of these schools have fulfilled this goal by serving in public interest and legal services positions, committing significant resources to pro bono work and representing underserved communities—all at rates exceeding those of their white counterparts.

Minority lawyers—black lawyers in particular—have consistently been more likely than white lawyers to take jobs with public interest and governmental organizations, and to surpass their white colleagues in pro bono hours worked yearly. A recent study of black Harvard graduates found that nine percent of them took jobs with public interest or legal services organizations upon graduation. *See Harvard Black Alumni Report, supra,* at 34–35. This rate well exceeded the national average and was three times greater than the average for Harvard graduates generally. *See id.* A similar survey of Michigan alumni found that the percentage of minority lawyers employed in legal services or public interest jobs exceeded the number of white graduates similarly employed in each of the three decades covered in the survey. *See* Chambers, *supra,* at 427. Black law school graduates are also more likely than their non-black colleagues to assist traditionally underserved communities; for example, the Michigan survey found that black alumni were much more likely than white alumni to serve low- and middle-income clients. *See id.* at 435; *see also* Elizabeth Chambliss, *Organizational Determinants of Law Firm Integration,* 46 Am. U. L. Rev. 669, 731 (1997).

Finally, minority graduates of elite law schools have maintained a steadfast commitment to providing pro bono services. Black Harvard graduates average 90 hours per year of pro bono legal representation. *See Harvard Black Alumni Report, supra,* at 47. Similarly, minority Michigan alumni in private practice average 75 hours of pro bono representation, compared to 51 hours for white Michigan alumni, *see* Chambers, supra, at 456, and about 24 hours on average across the country, *see* Deborah L. Rhode, *The Constitution of Equal Citizenship for a Good Society: Access to Justice,* 69 Fordham L. Rev. 1785, 1810 (2001).

4. Progress Toward Full Integration of the Legal Profession Must Continue

Despite the incipient racial progress in the legal profession, the lack of true diversity remains appalling. For example, although blacks and Latinos make up 25 percent of the country, combined Black and Latino representation among lawyers was only 7 percent in 1998. *See* Chambliss, *Miles to Go 2000, supra,* at v. Further, minority representation is particularly lacking in senior legal positions throughout the profession. *See id.* at *vi* (concluding that ''[m]inority representation in upper-level jobs remains miniscule, especially in the for-profit sector.''). For example, ''Minorities make up less than 3% of the partners in the nation's 250 largest law firms.'' Wilkins, *Rollin' On the River, supra,* at 539.

It is imperative that elite law schools continue to train and graduate significant numbers of minority attorneys. When these graduates serve as judges, they signal to the public that the justice system is unbiased and impartial, and that the courts value racial inclusiveness. When these graduates reach prominent positions in private practice or public institutions, they demonstrate that persistent barriers to equal opportunity are continuing to crumble. The legal profession's tentative steps toward integration cannot grow into significant strides if elite law schools no longer take race into account in admissions decisions.

II. ALTERNATIVE RACE-NEUTRAL ADMISSIONS POLICIES CRITICALLY DIMINISH THE NUMBER OF BLACK STUDENTS AT ELITE LAW SCHOOLS AND ARE NOT EFFECTIVE SUBSTITUTES FOR CURRENT RACE-CONSCIOUS ADMISSIONS POLICIES

As discussed above, elite law schools fulfill their public missions by providing racially diverse academic environments and training attorneys to improve the legal profession and serve the public. These law schools cannot continue to realize their missions if they are not able to consider race as one factor in admissions decisions. The leading approaches that have been touted as viable raceneutral alternatives to current law school admissions policies that take race into account are not in fact effective, workable or desirable with respect to elite law schools. Abandoning race-conscious admissions at elite law schools would lead to a catastrophic reversal of the incremental progress toward greater racial inclusiveness that these schools have made. For black students, a shift to a color-blind or race-neutral admissions system would lead to admissions results that are tantamount to ''the inexorable zero.'' *Cf. Johnson* v. *Transp. Agency,* 480 U.S. 616, 656–57 (1987) (O'Connor, J., concurring) (quoting *International Bhd. of Teamsters* v. *United States,* 431 U.S. 324, 342 n.23 (1977)) (discussing prima facie evidence of discrimination under Title VII). The race-neutral alternatives discussed below are demonstrably inferior to race-conscious policies in achieving racial diversity because they cannot ensure that black students will be represented in meaningful numbers at most, if not all, of the elite law schools. Consequently, such alternatives would also exclude black students from access to gateways to some of the most prestigious positions in the legal profession. Accordingly, the benefits. gained from employing race-conscious admissions policies are distinct from, and greater than, those provided by race-neutral alternatives.

A. ''Percentage Plans'' Are Not Viable Alternatives to Race-Conscious Admissions Policies

So-called ''percentage plans'' were created in the late 1990s for use in undergraduate admission programs at state universities. *See* Catherine L. Horn & Stella M. Flores, *Percent Plans in College Admissions: A Comparative Analysis of Three States' Experiences* 19–23 (2003) (discussing race-neutral percentage admissions plans used in college admissions in California, Texas and Florida). These plans grant automatic admission to state universities to students graduating within a certain top percentage of their public high school classes. *See id.* Critics of race-conscious admissions policies have touted these plans as effective alternatives, even in the graduate admissions context. *See, e.g.,* Brief for United States as *Amicus Curiae* at 13–18; Brief for the State of Florida as *Amicus Curiae* at 8–10. However, at least two significant impediments prevent percentage plans from assuring meaningful racial inclusiveness in the student bodies of elite law schools. See Horn & Flores, *supra,* at 41–51, 58–59 (relying on data from state agencies, the federal National Center for Education Statistics, the U.S. Census, institutional and state documents, and interviews to conclude that the race-neutral percentage admissions plans used in California, Texas and Florida are inadequate alternatives to race-conscious admissions plans).

First, percentage plans were designed specifically for college admissions. They are functionally incompatible with graduate school admissions, which must necessarily take into account demonstrated interest and experience in applicable fields of study, not simply generalized academic achievement. Second, even assuming *arguendo* that percentage plans could somehow work in the graduate school context, such plans certainly would not be effective with respect to admissions to elite law schools. Percentage plans rely on admission of a fixed portion of students at a limited number of pre-determined ''feeder'' schools. *See, e.g.,* Danielle Holley & Delia Spencer, *The Texas Ten Percent Plan,* 34 Harv. C.R.–C.L. L. Rev. 245, 277 (2000) (considering the recruiting policies of Texas state universities and noting the limited number of schools from which the universities have admitted students under the plan). In contrast, elite law schools recruit applicants from hundreds of colleges over a large geographical area, and the number of undergraduate applicants vastly exceeds the number of students that are accepted by these schools. See Jack Greenberg, *Affirmative Action in Higher Education: Confronting the Condition and Theory,* 43 B.C. L. Rev. 521, 540 (2002) (explaining the practical ineffectiveness of percentage plans).

Even if elite law schools were able to overcome such overwhelming implementation problems, it is unclear how percentage plans would work to maintain current levels of racial diversity at those schools for an additional reason. Percentage plans' ability to bring meaningful numbers of minority high school graduates to competitive universities has, perversely, depended on the existence of segregated secondary school systems. *See* Marta Tienda, *College Admissions Policies and the Education Pipeline: Implications for Medical and Health Professions, in The Right Thing To Do, the Smart Thing To Do: Enhancing Diversity in Health Professions* 117, 129 (Brian D. Smedley et al. eds., 2001). Undergraduate institutions whose student bodies are composed primarily of black. or minority students do not exist in sufficient numbers to enable such a policy to maintain current levels of minority representation at competitive law schools.

B. Admissions Policies That Focus on Socio-Economic Disadvantage Are Not Effective Alternatives to Race-Conscious Admissions Policies

Other critics have suggested that consideration of socio-economic status should replace that of race in the admissions calculus. *See, e.g.,* Richard D. Kahlenberg, *The Remedy: Class, Race, and Affirmative Action* (1996); William J. Wilson, *The Truly Disadvantaged* (1987); Richard H. Fallon, Jr., *Affirmative Action Based on Economic Disadvantage,* 43 U.C.L.A. L. Rev. 1913 (1996). An enhanced focus on socio-economic status, however, would not represent an effective substitute for elite law schools' current race-conscious admissions policies for at least two reasons. First, although blacks are disproportionately poor, whites drastically outnumber blacks at the lowest income levels, and are more likely than blacks to possess the test scores that qualify them for admission to academically selective institutions of higher education. *See* Bowen & Bok, *supra,* at 51; Wightman, *supra,* at 39–45; *see also* Jerome Karabel, *No Alternative: The Effects of Color-blind Admissions in California, in Chilling Admissions: The Affirmative Action Crisis and the Search for Alternatives* 33, 37–38 (1998) (explaining that consideration of applicants' socio-economic status would produce minimal racial diversity).

Second, admissions policies that look to socioeconomic class place greater emphasis on income than wealth because income is a more readily quantifiable metric. *See* Deborah C. Malamud, *Class-Based Affirmative Action: Lessons and Caveats,* 74 Tex. L. Rev. 1847, 1850 (1996) (cautioning that the economic status of traditionally disadvantaged groups, such as blacks, is likely to be overstated under mainstream common approaches to economic inequality). Notably, however, the disparity in wealth between blacks and whites is even more pronounced than the income gap. On average, although black workers earn 60 percent of what their white counterparts earn, black workers' net worth is just nine percent of white workers' net worth. *See* Kelvin M. Pollard & William P O'Hare, *America's Racial and Ethnic Minorities, in Population Bulletin,* Sept. 1999, at tbl. 6, *available at* http://www. prb.org/Content/NavigationMenu/PRB/AboutPRB/ Population__Bulletin2/Americas__Racial__and __Ethnic__Minorities. htm (estimating that the median black family possesses a net worth of $4,400 as compared with $45,700 for the median white family); *see also* Bowen & Bok, *supra,* at 48. Accordingly, because socio-economic status considerations are conducted in a way that fails to focus on economic disparities that are particular to blacks, such a race-neutral alternative does not appear to rival the consideration of race. Although socio-economic status may be a valid consideration in the law school admissions context, concentrating on that factor without taking into account race as well is unlikely to produce a student body that is racially diverse. *See, e.g.,* Thomas J. Kane, *Misconceptions in the Debate Over Affirmative Action in College Admissions, in Chilling Admissions: The Affirmative Action Crisis and the Search for Alternatives 24* (1998) (arguing that socio-economic status is a poor substitute for race in selective admissions programs).

C. Elite Law Schools That Have Abandoned Race-Conscious Admissions Policies Have Not Been Able To Maintain Meaningful Racial Diversity

The experience of law schools that have stopped relying on race-conscious admissions policies strongly suggests that meaningful levels of minority admissions or enrollment at elite law schools cannot be maintained in the absence of such policies. For example, in the wake of California's Proposition 209, which in 1996 barred the consideration of race in state university admissions decisions, the number of black students admitted to University of California (''UC'') law schools has significantly decreased. *See* United States Commission on Civil Rights, *Beyond Percentage Plans: The Challenge of Equal Opportunity in Higher Education* (2002), at http://www.usccr.gov/pubs/percent2/ch2.htm (hereinafter *Challenge*). In 1996–1997, the last admissions cycle before Proposition 209 was implemented, 7.2 percent of admitted students at all UC law schools were black. *See id.* In the three subsequent years, blacks were admitted at an average rate of less than 3 percent. *See id.* A similar decline in black representation has occurred at the University of Texas Law School in the wake of the Fifth Circuit's decision in *Hopwood* v. *Texas,* 78 F.3d 932 (5th Cir. 1996), *cert. denied,* 518 U.S. 1033 (1996), despite that law school's consideration of socio-economic factors in the admissions process. *See Challenge, supra* (noting that after restrictions on race-conscious admissions decisions were imposed pursuant to *Hopwood* in 1997–1998, black enrollment fell from 6.4 percent to 4.7 percent, and that by 2000–2001, black enrollment had fallen to 2.3 percent of the class).

Finally, Petitioner, like many critics of race-conscious law school admissions policies, envisions an admissions program with an increased emphasis on GPAs and LSAT scores. *See* Brief for Petitioner at 39–40. Whether these metrics measure objective merit and whether they should constitute the primary considerations for admissions officers is certainly questionable. The BLSAs note that a trend towards increased reliance on GPAs and LSAT scores for admissions decisions would have a far greater impact on black representation in legal education than a mere reallocation of black students among law schools. That is, were law school admissions to be based on GPAs and LSAT scores alone, substantial numbers of black students would not have access to a legal education, and only a handful would have access to a legal education at the elite law schools.

Professor Linda Wightman has analyzed how minority admission rates would be affected if law schools relied exclusively on GPAs and LSAT scores, or ''numbers-only'' admission criteria. *See* Linda F. Wightman, *The Consequences of Race-Blindness: Revisiting Prediction Models With Current Law School Data,* forthcoming in 53 J. Legal Educ. (2003); Wightman, *The Threat to Diversity, supra* at 22 tbl.5. Such an admissions regime would greatly reduce the number of black students admitted to any law school. In 2000–2001, approximately 50 percent of black law school applicants were admitted to at least one law school. *See* Wightman, *The Consequences of Race-Blindness, supra,* at 11. If an admissions process relying strictly on GPAs and LSATs were instituted, this figure would not have been higher than 43 percent and might have fallen as low as 31 percent. *See id.*

The reduction in the number of black students admitted to the most competitive law schools would be even more devastating. Prof. Wightman's research reveals that at the most selective schools, the percentage of black admitted applicants would plunge from 6.7 percent to 1.2 percent of admitted students. *See id.* at 18. Such a result would, in effect, return racial diversity in legal education to a level unseen since the era prior to the civil rights movement, when ''barely 1 percent of all law students in America were black * * * and virtually no black students were enrolled in [any] * * * predominantly white law school.'' Bowen and Bok, *supra,* at 5. Not only would such a trend toward racial homogeneity prevent elite law schools from fulfilling their public missions and deprive the legal profession of leadership that is responsive to the needs of an increasingly multiracial society, but the number of black law students at elite law schools under the numbers-only admission model would approach ''the inexorable zero.''

CONCLUSION

The Sixth Circuit opinion upholding the use of race-conscious admissions policies at the University of Michigan Law School should be affirmed.

Respectfully submitted,

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CHERYL MILLS.
HON. WILLIAM J. JEFFERSON,
*U.S. House of Representatives.*

Dated: February 18, 2003.

## 61ST REUNION OF DOOLITTLE RAIDERS

### HON. GEORGE MILLER
OF CALIFORNIA

### HON. ELLEN O. TAUSCHER
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. GEORGE MILLER of California. Mr. Speaker, we rise today to invite our colleagues to join us in honoring the Jimmy Doolittle Raiders on the 61st Anniversary of their remarkable bombing raid during World War II.

After Japan's surprise attack on Pearl Harbor, a series of sudden assaults against several Pacific Islands, and a devastating invasion of mainland China, the Japanese appeared invincible. In a mission cloaked in secrecy, Lt. Col. Jimmy Doolittle was selected as the leader based on his prowess as a military pilot and skills as a titleholder in civilian air races. Doolittle had the right stuff—inspiring leadership skills, flamed by a successful track record of pushing military and civilian aircraft to their operational limits.

On April 18, 1942, fifteen B–25s lifted off the deck of the aircraft carrier USS *Hornet* and headed for Japan. The challenge was to launch sixteen Army Air Corps B–25 bombers, designed for takeoffs from long land-based runways, from a perilously short 250-foot take-off area on the deck of a U.S. Navy carrier, and then fly 450 miles to Japan. The plan was to fly at treetop level to evade radar detection, then bomb seven targets selected as the enemy's primary war-making industrial sites, before heading to safe landing sites in China.

However, to preserve the element of surprise, the B–25s were launched 700 miles out to sea, a decision that did add to the surprise but also limited the effectiveness of the raid. One plane managed to land near Vladivostok, Russia, where its crew was interred for 14 months before escaping through Iran. In one of the other crews, two men drowned and one died on bailout. Eight Raiders were captured by Japanese forces and, became POWs for the duration of the war. Of these, three were executed and one died of malnutrition. The other four were released after three and a half years as POWs. Other Raiders bailed out over China and were assisted by the Chinese. While the raid did not succeed at destroying the selected targets, some of the crews dropped their bombs in Japanese territory. But more importantly, the raid has been recognized as a major turning point for the United States, boosting its morale and leading to an American offensive and the battle of Midway, which ultimately led to victory in the Pacific. Of the 80 original Raiders, 73 survived the raid, 19 of whom are still alive and celebrating today.

The 61st Reunion of the Doolittle Raiders will be held from April 15 to April 19 in our California congressional districts, in Fairfield, Vacaville, and Travis Air Force Base. The event will jumpstart the fundraising phase of the Jimmy Doolittle Air and Space Museum Foundation—a $50 million project that honors the history of flight, military air power in the defense of our nation, and the future of space technology.

We know that the Members of the House of Representatives join us in honoring all the Doolittle Raiders for their service, their courage and their sacrifice.

## FAIR PAY ACT WITH FEMALE CUSTODIANS TO PRESS PAY EQUITY TO COMMEMORATE EQUAL PAY DAY

### HON. ELEANOR HOLMES NORTON
OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Ms. NORTON. Mr. Speaker, today I and other members of the House and Senate introduced two bills—the Fair Pay Act and the Paycheck Fairness Act—at a press conference with a female custodial employee, who successfully sued the Architect of the Capitol for wage discrimination. An excerpt of the press conference follows.

Norton's Fair Pay Act, introduced in the Senate by Senator Tom Harkin (D–IA), addresses sex segregation ''where work is paid according to gender and not the job to be performed,'' she said, ''the major cause of the pay gap today.'' The Fair Pay Act addresses wages that often are lower in female dominated occupations, such as nursing, teaching and social work, and would allow suits under Title VII of the Civil Rights Act of 1964 for jobs with the same skill, effort and responsibility, as comparable male jobs, even if the jobs are not the same in content. Norton, who was the chair of the Equal Employment Opportunity Commission during the Carter Administration, was the first woman to head the agency.

Norton also became an original co-sponsor of the Paycheck Fairness Act, which seeks to update the Equal Pay Act (EPA) allowing suits for equal pay for equal work. ''At a minimum,'' Norton said: ''Pat Harris and 48 other female custodians, who work right here in the Capitol should be the last word on the continued importance of the EPA and the urgent need to update it. If female custodians can be paid $1.00 an hour less than their male counterparts right under the nose of the Congress, it is surely time to reexamine the 40 year old Equal Pay Act.''

Norton said that the female custodians' case also demonstrates why the Fair Pay Act is necessary ''as a 21st century amendment to the EPA.'' The Congresswoman, who from the inception of the suit, worked closely with the female custodians, their union, AFSCME local 626 officials, and their lawyers, pressed the Architect to settle the suit. She said that settlement discussions were ''endlessly protracted by the Architect's claim that the laborers did different work. The female custodians' case actually was a classic equal pay case, but settlement would have occurred earlier if the Fair Pay Act had already been law.'' Last year, Norton was invited to join the female custodians at the Ford Building when they received the checks they won as a result of the settlement. She said that the women showed exemplary courage in stepping forward to become the first to sue under the Congressional Accountability Act, which holds Congress accountable for the laws it applies to others.

## KATIE GEARLDS—INDIANA MISS BASKETBALL

### HON. JULIA CARSON
OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Ms. CARSON of Indiana. Mr. Speaker, I rise to commend Katie Gearlds, Indiana Miss Basketball 2003, from Beech Grove, IN.

A senior at Beech Grove High School, Katie Gearlds has already had a phenomenal basketball career as a team member of the Beech Grove Hornets Girls Basketball team. Not only has she been named Indiana Miss Basketball 2003, she also led her team to win the Indiana State Girls Basketball Championship, scoring a 3A title-record of 33 points.

She was named MVP of the McDonalds All-American game, Nike All-American, Parade Magazine All-American, and Gatorade Player of the Year in Indiana.

Katie finished the season with 2,521 points, placing her fourth in State career scoring in Indiana.

As a student at Beech Grove High School, Katie has also had an outstanding academic career with a grade point average of 3.8.

Katie will continue her basketball career with a 4–year scholarship at Purdue University where she plans to major in Pharmacy.

I ask the House of Representatives to join me in saluting this extraordinary young lady in her myriad achievements.

## VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2003

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. SMITH of New Jersey. Mr. Speaker, I am proud to introduce H.R. 1683, the Veterans' Compensation Cost-of-Living Adjustment Act of 2003. Veterans' Affairs Committee Ranking Member LANE EVANS, as well as the Chairman and Ranking Member of the Benefits Subcommittee, HENRY BROWN and MICHAEL MICHAUD, respectively, join me as original cosponsors of the bill. H.R. 1683 would provide a cost-of-living adjustment to veterans' benefits, effective December 1, 2003.

The VA Committee periodically reviews the service-connected disability compensation and dependency and indemnity compensation (DIC) programs to ensure that the benefits provide reasonable and adequate compensation for disabled veterans and their families. Based on this review, Congress acts annually to provide a cost-of-living adjustment in compensation and DIC benefits.

Mr. Speaker, Congress has provided increases in these rates for every fiscal year since 1976. The Administration's fiscal year 2004 budget submission, as well as the House Budget Resolution, includes funding for an increase that is currently estimated to be 2.0 percent.

I urge my colleagues to support this bill.

## RECOGNITION OF THE COMMUNITY OF KUNA, IDAHO

### HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. OTTER. Mr. Speaker, I rise today to recognize Master Sergeant Samuel Johnston and the proud community of Kuna, Idaho. Sergeant Johnston is serving in the Iraq War as a member of the Idaho National Guard. He was deployed to Kuwait in January—leaving his 60-acre farm unattended. Last week his neighbors in Kuna finished spring planting on the Johnston farm.

Francis Murphey organized the volunteer group consisting of Dick Deutsche, Alan White, Leonard Flynn, Darrell Lee Robertson, Dave Reynolds, Jack Noble, John McPherson, Lavar K. and Layne Thornton, and Ed, Gayle and Roger Hodges.

I bring to the attention of the House these residents of Kuna, Idaho as they exemplify the American spirit of cooperation and patriotism by providing for Sergeant Johnston and his family—while he, in turn, serves and protects our country.

## PERSONAL EXPLANATION

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. ROGERS of Alabama. Mr. Speaker, during rollcall vote Nos. 109, 110, and 111 on April 7, 2003, I was unavoidably detained. Had I been present, I would have voted "yea."

## UNIVERSITY OF CONNECTICUT WOMEN'S BASKETBALL TEAM

### HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. LARSON. Mr. Speaker, I rise today in celebration of women's basketball and to pay tribute to the University of Connecticut women's basketball team.

The Huskies have won 76 of their last 77 games including a record breaking 70 wins in a row on their way to winning their second national title on April 8, 2003. They are the first women's basketball team ever to win the national championship without a senior on the team. They achieved this distinction by defeating outstanding teams from Texas and Tennessee in the Final Four.

Geno Auriemma, Chris Dailey, their assistants, Lew Perkins, and the entire UConn program are to be commended for their continued pursuit of excellence both on and off the basketball court. They are a credit to women's sports and college athletics in general.

Coach Auriemma paid a great tribute to Pat Summitt and the Tennessee team, citing that UConn beat the best women's basketball program in the country. Though his Huskies were victorious, the real winner was women's athletics.

With all the talk about changing Title IX, this Final Four bears testimony on the wisdom of that policy. Texas, Duke, Tennessee, and Connecticut brought women's basketball to another level. For purists who follow sports, its reminiscent of baseball in the 1950s and 60s. There is a purity about the women's game that is unique and endearing and transcends gender.

For the University of Connecticut team, the first ever group of all underclassmen to win the national title, what a lasting tribute to your dedication, stamina, spirit, and will to win.

They say that teams are an extension of their coach. Clearly the UConn women's program is personified in Coach Auriemma and in their leader Diana Taurasi. The Supremes had Diana Ross, the British had Princess Diana. Connecticut has "D," Diana Taurasi, simply the best women's basketball player in the country.

While Diana Taurasi at times carried this team on her back, the championship could not have been won without a team effort. Ann Strother will be remembered for shaking off a tough tournament to play her best game in the biggest game. The flawless ball handling and clutch three pointers by Maria Conlon freed Taurasi to focus on shooting and driving to the basket. The solid inside play of Jessica Moore, Barbara Turner, and Willnett Crockett kept the offense balanced and the defense off guard. And who will forget Ashley Battle's steal of the ball to seal the victory. Not to be overlooked are the contributions throughout the year of Morgan Valley, Ashley Valley, Stacey Marron, and Nicole Wolff.

I only hope Geno and Kathy, Chris Dailey, and all the coaches get to relax and enjoy the moment, because the expectation for a three-peat has already started.

Lastly, this great game with great teams was played out by young women on a national stage in what will go down as a tournament for the ages, and will inspire countless dreams of girls and boys who aspire to excel in sports and seize the moment.

I am further delighted to collect my dinner wager from Harold Ford, Jr. of Tennessee, a future President of the United States. I will enjoy every morsel of this meal as I brag on the Huskies, Diana Taurasi, the Big East, and another future President, Joe Lieberman.

Mr. Speaker, I ask my colleagues to join me today in paying tribute to the University of Connecticut's fourth women's basketball national championship and celebrating the game of women's basketball and the continued success of women's athletics.

## HONORING THE CITY OF MILLEDGEVILLE

### HON. JIM MARSHALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. MARSHALL. Mr. Speaker, I rise to pay tribute to the City of Milledgeville, Georgia, on the occasion of this historic city's year-long bicentennial celebration.

Situated just west of the Oconee River on what was then the edge of Georgia's frontier, Milledgeville was founded in 1803 after a long search by a Georgia legislature-commissioned expedition to find a new capital city. The city was named for John Milledge, who at the time was a popular Georgia governor. Within a year of its founding, the city was declared the official seat of Georgia's state government, becoming the only city outside Washington, D.C. designed specifically to be a capital city. As the capital, Milledgeville was a key location for many historic events in Georgia's history, including the 1861 signing of the Ordinance of Secession at the Old Capitol and a stopping place in 1864 for General Sherman, who slept in the Governor's Mansion as he passed through on his infamous March to the Sea. In 1868, Georgia moved its state capitol to Atlanta, but Milledgeville continued to prosper and grow, becoming home to a thriving university and new businesses while still keeping an eye on its antebellum past. Last year, the city welcomed more than 60,000 visitors to see such attractions as the Old State Capitol, the Governor's Mansion and a number of other old homes that showcase the city's true Southern style.

Mr. Speaker, I am proud to represent this fine community of individuals who, over the years, have worked hard to build their city into what it is today. This year, the city is welcoming visitors from across the nation to join in celebrating their first 200 years of history. Part of this celebration will include the dedication of Georgia's Antebellum Capitol Museum, an old-fashioned independence day celebration, a black-tie bicentennial ball and monthly lectures highlighting the people and places that have helped make Milledgeville truly unique.

Mr. Speaker, I am confident that my colleagues in the U.S. House of Representatives will join me in congratulating the City of Milledgeville for its 200 years.

## PERSONAL EXPLANATION

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. BECERRA. Mr. Speaker, on Monday, April 7, 2003, I was unable to cast my floor vote on rollcall Nos. 109, 110, and 111. The votes I missed include rollcall vote 109 on Suspending the Rules and Passing H.R. 1055, the Dr. Roswell N. Beck Post Office Building Designation Act; rollcall vote 110 on Suspending the Rules and Agreeing to H. Res. 127, as Amended, Expressing the Sense of Congress that a month should be designated as ''Financial Literacy for Youth Month,'' and rollcall vote 111 on Suspending the Rules and Passing, as Amended H.R. 1368, the Norman Shumway Post Office Building Designation Act.

Had I been present for the votes, I would have voted ''aye'' on rollcall votes 109, 110, and 111.

## A TRIBUTE TO DANIEL COELHO FOR 50 YEARS OF HELPING AMERICANS WITH FINANCIAL SECURITY

### HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. LEWIS of California. Mr. Speaker, I would like today to congratulate Daniel S. Coelho, a good friend and mentor of mine, as he celebrates his 50th year as a leader in the financial security industry. As he celebrates this milestone, he can take pride in having helping thousands of families to ensure their financial future and start productive new businesses.

Many of my colleagues know that I began my professional life as an independent insurance agent, specializing in whole life insurance. It was during those early years that I came to know Daniel Coelho, who was my general agent with Penn Mutual Life and helped me learn the trade and how important these policies can be for American families.

Americans today have an entire universe of options to invest in their future, from Individual Retirement Accounts to 401k savings. But before any of these were established, whole life insurance was the most important way for American families to plan for their future. Millions of families ensured that their spouses and children would have financial security, while at the same time laying a foundation for their own retirement. And millions of entrepreneurs have used these policies as the only way to get capital to start the small businesses that are the bedrock of our economy.

Dan Coelho has spent 5 decades in this industry, establishing a record of business ethics and policy leadership that has earned the trust of thousands of families who have counted on him and his firm to lay their financial future. His advice and support has helped entrepreneurs create thousands of small businesses—many of which are now large and successful firms.

A California native born to immigrant parents, Dan graduated from University of California, Berkeley in 1950 after capping his college career by being elected student body president. He went to work for Bechtel Corporation in Arkansas, where he met his future wife, Jenny Johnson.

After service in the Korean conflict, Dan entered his life insurance career with the Penn Mutual Life General Agency in San Francisco, and was appointed General Agent in Detroit in 1957. After that agency was given the company's President's Award, he was offered the Los Angeles agency in 1962. Over the next 23 years, the Los Angeles agency grew into one of the nation's largest, and was renamed Resources Financial. It now offers a full range of investment and estate planning and business services for small and large companies.

Daniel Coelho has become known to many of my colleagues as a Core Group Member for the Association for Advanced Life Underwriters, which seeks to protect these basic investments for Americans. There is no doubt that some in government have had their eye on these pools of individual financial security as potential sources for taxation, and investors should thank Dan Coelho and his fellows for watching over their interests in Washington and state capitals.

Mr. Speaker, thousands of families owe their financial peace of mind to Daniel S. Coelho and the company he has led for the past 50 years. Please join me in congratulating him for those years of success and service, and wish him and Jenny well in their future endeavors.

## INTRODUCTION OF THE DNA DATABASE ENHANCEMENT ACT

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to introduce the DNA Database Enhancement Act—legislation that will expand and improve the use of DNA analysis in criminal investigations.

As a former federal prosecutor, I recognize what a powerful tool the use of DNA profiles has become in solving crimes. In 1998, the FBI created a system of DNA profile indexes, the Combined DNA Index System (CODIS), to allow participating forensic laboratories to compare DNA profiles with the goal of matching case evidence to other previously unrelated cases or to persons already convicted of specific crimes. This database contains about 1.3 million DNA samples and has yielded more than 6,000 matches in criminal investigations.

Previously, federal law required that a state collect for analysis DNA samples from persons convicted of a felony of a sexual nature. However, the collection of samples from other felons is currently dependent entirely upon state law. The DNA Database Enhancement Act would broaden this collection requirement to include all individuals convicted of violent felonies.

In order to facilitate crime solving and information sharing among local and state law enforcement agencies, my bill would also expand CODIS by permitting states to upload collected DNA samples to the national database. In Virginia, law enforcement is authorized to collect DNA samples from suspects being charged with violent crimes and other felonies. This has yielded tremendous results, with forensic officials making their 1,000th ''cold hit'' last year by matching a rape suspect to a 2001 sexual assault case.

Finally, this legislation will increase the effectiveness of DNA databases in crime solving by ensuring that law enforcement can compare DNA samples with CODIS. While most states already run comparisons on collected samples, some states have restrictions on how and when samples can be compared. This bill will increase the effectiveness of DNA databases in crime solving by removing restrictions that impede the comparison of DNA samples against established DNA databases. Where DNA is given voluntarily or obtained by law enforcement in a lawful manner, law enforcement should be able to compare those samples with CODIS.

Recently, the Department of Justice announced a proposal to spend more than $1 billion over the next five years on DNA analysis in criminal cases. This plan, originally introduced in the Administration's 2004 budget proposal, involves a significant expansion of the FBI's DNA database. The FBI has also announced plans to request authorization to obtain pre-conviction DNA samples from states that currently collect such samples, such as Virginia, Louisiana, and Texas. These joint proposals would dramatically improve the ability to match samples recovered at crime scenes.

With similar goals in mind, my legislation, the DNA Database Enhancement Act, will make important changes to ensure that law enforcement can fully utilize the powerful tool of DNA analysis in solving crimes.

## NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

### HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. BERRY. Mr. Speaker, I rise today to recognize those men and women who have served our country in battle and have been taken prisoner. Today is National Former Prisoner of War Recognition Day. It is right that we pause to honor the sacrifice of veterans like these.

However, Mr. Speaker, we must do more than honor these men and women with words. Talk is cheap. I rise to talk about the Budget that this house passed on March 21. The budget that this House passed hurt veterans by proposing long term cuts to essential health care programs. I was proud to vote against this budget. However, it is important the public fully understand why this budget is so bad for our nation's veterans.

The Budget calls for $28.3 billion dollars to be cut from veterans health care and other spending on veterans benefits over the next 10 years. This is a disgrace. Why is this body going to cut this money? In order to pay for a $1.35 trillion tax cut for the wealthiest Americans that doesn't create jobs or stimulate the economy.

So, that means that this Administration and the leadership of the House of Representatives has made a choice. They would rather have tax cuts for the wealthiest Americans than veterans benefits. Period. No other explanation is plausible. It is almost impossible for me to believe that as the veterans population rises and ages, that this House would eliminate benefits.

Mr. Speaker, we have men and women on the field of battle in Iraq, fighting to make others free. Should we not honor their sacrifice by keeping our promises to those that have already served? Should we not eliminate these cuts in VA spending? The wealthy need a tax cut less than veterans need the health care they were promised. If our society has sunk to the point where we are choosing to dishonor service in order to make the rich richer, then we surely are not the great nation we once were.

Mr. Speaker, we should honor those who have served, those who were POWs, and those that gave the ultimate sacrifice.

## INTRODUCTION OF THE CYBERMOLESTERS ENFORCEMENT ACT OF 2003

### HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. SIMMONS. Mr. Speaker, I rise before you today to introduce my ‘‘Cybermolesters Enforcement Act of 2003,’’ a bill that would bring today's high-tech child molesters to justice.

While the Internet has revolutionized communication and business, it unfortunately provides a tool for child molesters, and loopholes in the current law allow some of these predators to escape without any real consequences. And although it is already a federal crime to cross state lines to sexually molest a minor, in recent years the number of people using the Internet to violate this law has skyrocketed. I call these individuals ‘‘cybermolesters.’’

Cybermolesters are not easy to identify. They typically are well educated; middle-class citizens who have no previous criminal record and, as a result, tend to escape with little or no jail time. For example, convicted child pornographers receive ten-year mandatory sentences, but those who use the Internet to meet children and commit criminal sexual acts can receive no jail time at all. This double standard gives lighter sentences to a special set of privileged criminals. My bill would end this double standard by imposing a five-year mandatory minimum sentence for cybermolesters.

My bill also provides law enforcement with two important tools to combat those who prey on our nation's children. First, it would allow law enforcement to obtain a federal wiretap on those suspected of committing certain child sexual exploitation offenses, such as transmitting computer-generated child pornography, enticing a minor to travel for sexual activity, and transporting a minor for sexual activity. Second, it would classify child pornography as ‘‘contraband,’’ which would enable law enforcement to seize it based upon probable cause and to destroy it automatically after its use, as evidence was no longer needed. This measure has the support of the FBI's ‘‘Innocent Images’’ Program, which is on the front lines of the battle against on-line pedophiles.

Mr. Speaker, two weeks ago the passage of H.R. 1104 was a clear demonstration of our united support in improving the safety and welfare of our children. We cannot allow our law enforcement to lose step with an ever-evolving electronic society. We cannot allow these sexual predators to get away with the criminal acts they are committing against innocent children. We cannot allow one of our greatest advancements to become a tool for our biggest degenerates. The Cybermolester Enforcement Act will ensure that these ‘‘cyberpredators’’ are suitably punished and America's children are properly protected.

## NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

### HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mrs. TAUSCHER. Mr. Speaker, I rise today to honor the Americans who are currently serving our country, and those who have served so gallantly in the past. Particularly during this time of war, America's heroes of the past, as well as the present, must be honored and remembered. As such, I join Congressman HOYER and Congressman SKELTON to recognize today as National Former Prisoner of War Recognition Day.

These soldiers, captured while fighting for freedom and the future of America, faced imprisonment with their fates unknown. These brave men and women looked their enemy in the face, persevered with honor, courage, and faith in their country—and survived. Many, however, were not so fortunate.

The ordeal of being a prisoner of war does not end once rescued from behind enemy lines. The physical, emotional, and spiritual toll of internment can take years, even a lifetime, to rebuild and overcome.

As former prisoners of war, you have gone beyond the call of your duty. You put your life, your blood, your soul on the line. This is a sacrifice most of us will never be able to comprehend. That burden, that sacrifice, that unfettered dedication to our country will forever make you national heroes.

We owe an inexpressible debt of gratitude to you, our former POWs, and to your families, whose prayers for a safe return were answered.

Today we honor you for your bravery, strength, and sacrifice. And tomorrow we will not forget.

## TRIBUTE TO AMERICA'S REAL HEROES AS OFFERED BY ALABAMA STATE AUDITOR BETH CHAPMAN

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. BONNER. Mr. Speaker, a few weeks ago, a childhood friend, Beth Killough Chapman, who now serves my home state of Alabama with distinction as our State Auditor, made a speech at a ‘‘Stand up for America Rally’’ in the city of Pelham, a suburb of Birmingham.

Beth's remarks, although certainly unintended at the time, captured the views of many of us in this country and sparked an emotional response from literally thousands of people in all 50 states, including many of the men and women who proudly wear the uniform of our military in defense of this great country.

Unlike so many of the speeches we hear in this city, Beth Chapman's remarks were not made with a particular slant that was either pro-Democrat or pro-Republican. Instead, Beth's comments were simply ‘‘pro-American,’’ and after reading her words, it was obvious to me that the speech was made straight from the heart.

Mr. Speaker, in these uncertain times when so many people have questions about where we are going, what we are doing and who can we trust, I found Beth Chapman's words inspirational and comforting. I ask that her speech be entered into the CONGRESSIONAL RECORD in its entirety, in hopes that even more people can be encouraged to stop and think about the true price of liberty and who is making the real sacrifices to preserve what is so dear to us all:

I'm here tonight because men and women of the United States military have given their lives for my freedom. I am not here tonight because Sheryl Crowe, Rosie O'Donnell, Jane Fonda, Martin Sheen, the Dixie Chicks, Barbra Streisand, the Beastie Boys, George Clooney or Phil Donahue, sacrificed their lives for me.

If my memory serves me correctly, it was not movie stars or musicians, but the United States Military who fought on the shores of Iwo Jima, the jungles of Vietnam, and the beaches of Normandy.

Tonight, I say we should support the President of the United States and the U.S. military and tell the liberal, tree-hugging, hippy, Birkenstock wearing, tie-dyed liberals to go make their movies and music and whine somewhere else.

After all, if they lived in Iraq, they wouldn't be allowed the freedom of speech they're being given here today—ironically, they would be put to death at the hands of Sadam Hussein or Osama Bin Laden.

I want to know how the very people who are against war because of the loss of life, can possibly be the same people who are for abortion?

They are the same people who are for animal rights but against the rights of the unborn.

The movie stars say they want to go to Iraq and serve as human shields for the Iraqis, I say let them buy a one-way ticket and go.

No one likes war, I hate war. But the one thing I hate more is the fact that this country has been forced into war—innocent people have lost their lives—and there but for the grace of God, it could have been my brother, my husband, or even worse my own son.

On December 7, 1941, there are no records of movie stars treading the blazing waters of Pearl Harbor.

On September 11, 2001; there are no photos of movie stars standing as human shields against the debris and falling bodies descending from the World Trade Center. There were only policemen and firemen—underpaid civil servants who gave their all with nothing expected in return.

When the USS *Cole* was bombed, there were no movie stars guarding the ship—where were the human shields then?

If America's movie stars want to be human shields, let them shield the gang-ridden streets of Los Angeles, or New York City, let them shield the lives of the children of North

Birmingham whose mothers lay them down to sleep on the floor each night to shelter them from stray bullets.

If they want to be human shields, I say let them shield the men and women of honesty and integrity who epitomize courage and embody the spirit of freedom by wearing the proud uniforms of the United States Military. Those are the people who have earned and deserve shielding.

Throughout the course of history, this country has remained free, not because of movie stars and liberal activists but because of brave men and women who hated war too—but lay down their lives so that we all may live in freedom. After all—What greater love hath no man, that he lay down his life for his friend,'' but in this case a country.

We should give our military honor and acknowledgement and not let their lives be in vain. If you want to see true human shields, walk through Arlington Cemetery. There lie human shields, heroes, and the BRAVE Americans who didn't get on television and talk about being human shields, they were human shields.

I thank God tonight for freedom—those who bought and paid for it with their lives in the past—those who will protect it in the present and defend it in the future.

America has remained silent too long. God-fearing people have remained silent too long.

We must lift our voices united in a humble prayer to God for guidance and the strength and courage to sustain us throughout whatever the future may hold.

After the tragic events of Sept. 11th, my then eleven-year-old son said terrorism is a war against us and them and if you're not one of us, then you're one of them.

So in closing tonight, let *us* be of one accord, let *us* stand proud, and let *us* be the human shields of prayer, encouragement and support for the President, our troops and their families and our country.

May God bless America, the land of the free, the home of the brave and the greatest country on the face of this earth!

## HONORING RUTH GRIFFIN

### HON. JEB BRADLEY

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. BRADLEY of New Hampshire. Mr. Speaker, I rise today to pay tribute to the Honorable Ruth Griffin upon receiving the first annual 2003 Lifetime of Service Award from City Year New Hampshire.

This award is given in recognition of New Hampshire citizens who have committed themselves to making a difference in their neighborhood, city, and state. Ruth's thirty years of public service are a testament to her love of New Hampshire and her desire to make it an even better place to live.

Ruth claims her greatest joy in life is service to others, and she remains committed to this adage by participating in numerous community service events and programs, along with performing her civic duties as an elected official. It is clear she has lived up to this motto through her work with the Portsmouth Housing Authority Commission and the Portsmouth Board of Education. She extended her service beyond the Seacoast to all of New Hampshire by serving as a State Representative and State Senator, and she currently serves as an Executive Councilor. She is also a long-standing supporter of law enforcement, as evidenced by her lifetime membership in the 100 Club of New Hampshire and her past tenure on the Portsmouth Police Commission. Ruth gives one hundred percent of her time and efforts to bettering the lives of those less fortunate. She is a role model for the concepts of citizenship, teamwork, and appreciation of difference, the ideals on which City Year is based.

Ruth is a shining example of what good citizenship is all about. She has raised the bar for those who want to be public servants. I am proud to represent such an outstanding citizen and community leader in the United States House of Representatives.

## TRANSITIONAL HOUSING FOR VICTIMS OF ABUSE

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Ms. SCHAKOWSKY. Mr. Speaker, today I am introducing a bipartisan bill that would establish a program for transitional housing assistance for victims of domestic violence and sexual assault. Passage of this legislation is long overdue, as thousands of women and their children continue to suffer at the hands of their abusers simply because they have no where else to go.

I am proud to be joined in this effort by my colleague from the other body, Senator PATRICK LEAHY, who is introducing identical legislation today. I would also like to commend the 25 bipartisan cosponsors who have joined me in seeking relief and assistance for abused women and children. No time is more appropriate than the present to introduce a bill that seeks to help those who have suffered violence in their personal lives and in their homes.

Senator LEAHY and I recognize and understand the complex issues facing women and their children who want nothing more than a safe and secure home. Transitional housing is often the link between emergency housing and a victim's ability to become self-sufficient. This bill opens the doors to new opportunities for survivors because, in addition to a roof and a bed, transitional housing programs also offer supportive services, such as counseling, job training, access to education, and child care. These tools are critical to allowing women to get back on their feet and to be able to support their children in a home that is free from violence.

This bill would authorize $30 million for each fiscal year from 2004 through 2008. The program would be added to the Violence Against Women Act and would be funded through the Violence Against Women Office in the Department of Justice. With 50% of homeless women on the streets because of domestic violence, it is critical that we address the unique needs of this large and vulnerable population. The Violence Against Women Office has the unique understanding and ability to help these women and children.

It is now essential that we not only pass this legislation but also appropriate $30 million for transitional housing assistance and provide this critically needed safety net for women seeking to escape abuse. The women and children of this country deserve nothing less.

## HONORING THE LIFE AND ACHIEVEMENTS OF DONNELL D. ETZWILER, M.D.

### HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. RAMSTAD. Mr. Speaker, I rise today to urge my colleagues to join me in honoring the life and achievements of Donnell D. Etzwiler, M.D.

My home state of Minnesota lost a true hero for people with diabetes on April 6 when Dr. Etzwiler passed away, but his legacy lives on. Dr. Etzwiler touched countless lives with his commitment to improving the quality of care for Americans with diabetes.

A graduate of Yale University School of Medicine, Dr. Etzwiler served for four decades as a pediatrician specializing in diabetes care at the Park Nicollet Clinic in Minneapolis. He is perhaps best known as the founder of the International Diabetes Center (IDC) in Minnesota, where he served as President and Chief Medical Officer until 1996. The mission of the IDC is to ensure every person with diabetes or even at risk of developing diabetes receives the best possible care.

Throughout Dr. Etzwiler's three decades of leadership, the IDC delivered on that promise. The IDC has trained over 20,000 health professionals, including hundreds from countries such as Brazil, Mexico, Japan, Poland and Russia. Because of his dedication to the children he cared for, the IDC organized and hosted the First International Symposium on Diabetes Camps in 1974. This important group helped establish standards and accreditation for diabetes camp programs.

In 1976 and 1977, Dr. Etzwiler served as President of the American Diabetes Association. Later, he spent over twelve years as a Principal Investigator for the Diabetes Control and Complications Trial at the National Institutes of Health. This groundbreaking study demonstrated that keeping blood glucose levels as close to normal as possible in people with diabetes slows the onset and progression of complications like eye, kidney and nerve disease.

Dr. Etzwiler's commitment to improving diabetes care transcended national boundaries. He served as Chairman of the Diabetes Collaborating Centers for the World Health Organization. The Russian government officially recognized his work by awarding Dr. Etzwiler a Peace Award for co-founding and co-directing the International Diabetes Programme in Russia.

Most recently, Dr. Etzwiler received the National Institute of Health Policy's Health Care Leadership Award for his outstanding record of service.

As if all these landmark accomplishments were not enough to occupy his time, Dr. Etzwiler was also heavily involved in professional medical associations, serving in many leadership positions. He was a member of the Institute of Medicine. He received over 30 honors and awards from professional and civic organizations. He was a professor of medicine for over 40 years and published over 200 articles and abstracts about diabetes care.

Dr. Etzwiler's commitment and compassion has literally saved and improved the lives of countless people across the globe, especially children with diabetes. Mr. Speaker, on behalf of the millions of Americans with diabetes and their friends and family, I urge my colleagues to join me in honoring the life and legacy of Dr. Donnell D. Etzwiler.

## HONORING THE WOODIS FAMILY

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize the Woodis family of Montrose, Colorado for their willingness to dedicate their time and energy to benefit the disabled. The Woodis family is raising a puppy to be a companion dog for a person with a physical disability, and today I would like to pay tribute to their efforts before this body of Congress and this nation.

Sons Jeff and Ethan Woodis have raised pigs for their 4-H club, so when the club required a community service project, they turned to Canine Companions, an organization founded in 1975 to provide dogs trained to help disabled people achieve greater independence. Airlie, a female Black Labrador retriever, came to Montrose to live with the Woodis family and to learn thirty basic commands to help her prepare for life as a companion dog. After the initial training, Airlie will go to California for six months of advanced training before graduation. Then, the Woodis family will hand Airlie's leash to her new owner. Raising Airlie has been a community-wide effort, with help coming from numerous local organizations and businesses.

Mr. Speaker, it is a great privilege to recognize the Woodis family for their contributions to the quality of life of disabled Americans. By helping to raise and train Airlie, the Woodis family is helping to provide increased independence and freedom, as well as a loving companion, for a disabled American. I thank them for their efforts.

## HONORING MASTER SGT. ROBERT J. DOWDY

### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mrs. JONES of Ohio. Mr. Speaker, I rise to honor an American hero, Robert Dowdy, who lost his life during the conflict with Iraq. Master Sgt. Robert J. Dowdy, 38, was a native of Cleveland and a member of the 507th Maintenance Company of Fort Bliss, Texas.

First Sergeant Robert Dowdy was a loving son and devoted husband. A passionate distance runner, Robert placed second in a 10-kilometer run in el Paso, Texas, 2 years ago and contended in a 20-kilometer foot race over a mountain there in 1999.

Robert Dowdy had been in the Army for 18 years and was 2 years from retirement. His older sibling, Jack Dowdy expressed on his brother's behalf that Robert Dowdy had been looking forward to retirement to spend more time with his wife and 14-year-old daughter.

On behalf of the people of the 11th Congressional District and the United States Congress, I extend my heartfelt sympathy.

## TRIBUTE TO MARY LU AFT

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. PORTMAN. Mr. Speaker, I rise today to recognize the outstanding service of Mary Lu Aft, a friend and distinguished constituent, who has enriched the lives of countless individuals in the Cincinnati area. On April 25, 2003, Mary Lu will complete an unprecedented fifth and final term as Chair of the Board of Trustees of the Friends of the Public Library.

Friends of the Public Library is an organization that raises funds for materials, programs and services that support the Public Library of Cincinnati and Hamilton County. The Public Library system has a circulation of 12.8 million books, videos and other materials, and is the fourth busiest library system in the country.

Mary Lu is an invaluable part of the Cincinnati community. Since 1998, she has served as Chair of the Board of Trustees of the Friends of the Public Library, and, since 1989, has also served as its Chair of Book Sales. Over the years, Mary Lu has been integral to the success of ''Friends.'' During her service, she oversaw and coordinated used book, warehouse, and branch sales, which have raised over $1.6 million for the Public Library programs and purchases. Mary Lu also planned and coordinated the recycling of over 3 million books, which were donated to ''Friends'' or retired from the Library's circulation. Her leadership and hard work have made the Public Library of Cincinnati and Hamilton County a national model for such initiatives, and, of course, have been a tremendous benefit to those in the Cincinnati area.

Mary Lu also has been active with a number of other good causes and organizations. Since 1981, she has served as a consultant to the American Red Cross, and she continues to give her time and energy to the United Way of America. Among her other activities, Mary Lu is the Co-Chair of the 2003 International Conference of Volunteer Administrators.

Mary Lu's success has not gone unnoticed. She received the Great Rivers Girl Scout Council Woman of Distinction award in 2000 and the Cincinnati Enquirer's Woman of the Year award in 1999.

Mr. Speaker, I hope my colleagues will join me in recognizing Mary Lu's many accomplishments as she steps down as Chair of the Board of Trustees of Friends of the Public Library on April 25, 2003. I know Mary Lu will continue to make a difference in our community and Nation. All of us in Southwestern Ohio wish her the very best in her future endeavors.

## TRIBUTE TO MILLIE BEALL

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize Millie Beall of Steamboat Springs, Colorado for her extraordinary service to her community. Millie has long been recognized as a leader in Steamboat Springs, and today I would like to acknowledge her accomplishments before this body of Congress and this nation.

Millie moved to Steamboat Springs in 1971 for the ski season and never left. Since then she has served on the Steamboat Springs School Board for eight years, including four as its president, and another eight years as a member of the Routt County Education Foundation. Among many other activities, Millie has been involved with the El Pomar Youth in Community Service program, the Community Committee for the Arts, and the Yampa Valley Community Foundation, and the Northwest Colorado Philanthropy Days. She currently serves as the executive director of Routt County United Way and works to raise funds for a wide variety of projects. Spending most of her career in community service, Millie has received numerous awards, most recently receiving recognition from the Steamboat Ski and Resort Corporation.

Mr. Speaker, it is a great privilege to recognize Millie Beall for her outstanding commitment to her community. Millie holds a key leadership role in Steamboat Springs, and her community is immeasurably better off because of her efforts. I wish Millie the best in all of her future endeavors.

## A TRIBUTE TO COL. DAVID PERKINS OF NEW HAMPSHIRE

### HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. BASS. Mr. Speaker, I rise today to pay tribute to one of the many brave U.S. soldiers selflessly participating in Operation Iraqi Freedom. Col. David Perkins of Keene, New Hampshire, a community I represent in Congress, is the commander of the 2nd Brigade Combat Team of the 3rd Infantry Division. Col. Perkins led what has been referred to as the opening maneuver of the amazingly swift push of coalition forces into Baghdad.

On March 31, 2003, in a feint designed to draw the Iraqi Republican Guard away from Musayyib, where the division was to cross the Euphrates River, Col. Perkins focused attention on a bridge at Hindiyah, 50 miles south of Baghdad. The Granite Stater was reportedly ''unfazed by Iraqi soldiers shooting at him'' from the other side of the river as he told his men the bridge was not worth taking.

Col. Perkins then led a contingent of his men to the town's abandoned Baath party headquarters, where they destroyed a large weapons cache. In an historic event, just 4 days later, Col. Perkins' combat team and other brigades rolled through the streets of Baghdad.

Let the record show that I am enormously proud that a soldier from my District has played such a heroic and vital role in what will ultimately be the liberation of the people of Iraq from the brutal regime of Saddam Hussein. The world will be a much safer place because of the efforts of Col. Perkins and other fine men and women who risk their own lives on our behalf.

## HONORING PRIVATE BRANDON ULYSSES SLOAN

### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mrs. JONES of Ohio. I rise to honor an American hero, Brandon Ulysses Sloan, who lost his life during the conflict with Iraq. Private Brandon Ulysses Sloan was a native of Cleveland and a member of the 507th Maintenance Company of the United States Army. He was born on October 7, 1983, in Cleveland, Ohio to the union of Tandy U. and Kimberly T. Sloan.

Brandon Sloan exhibited a unique blend of personality and strength. A loving child, Brandon always played and enjoyed spending time with other children. Brandon later became a big brother to his sister Brittany, with whom he shared a close friendship.

Brandon began his education in the East Cleveland School District, and remained in the district until the family moved to Euclid, Ohio. While in the East Cleveland Schools, he developed a love for basketball and continued in various athletic pursuits.

During the formative years, the family enjoyed many happy times together. Brandon in particular enjoyed playing basketball and developed a knack for making good friends.

In 1996, the family moved to Oakwood Village, Ohio in the Bedford School District. There, Brandon became a Bedford ''Bearcat'', participating in high school football as a defensive lineman.

Brandon confessed a hope in Christ during his high school years and was baptized at The Historic Greater Friendship Baptist Church.

Later he decided to pursue a military career. He joined the United States Army to serve his country. After having served one year, Brandon gave his life for his country.

Precious memories are cherished by his father, Rev. Tandy U. Sloan; mother, Kimberly T. Sloan; sister, Brittney; two grandmothers, Dr. R. Pippen (James) and Luberta Sloan. He also had a host of uncles, aunts and cousins. His friends are numerous but to name a few: Stephon, Romel, Cleo and Eddie (U.S. Marine Corps), all who mourn his loss.

On behalf of the people of the 11th Congressional District and the United States Congress. I extend my heartfelt sympathy.

## IN HONOR OF EDWARD H. HUNDERT, M.D.

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Edward H. Hundert, M.D., President of Case Western University, as he is recognized by the American Heart Association for his unwavering dedication and exceptional achievement within the Cleveland medical community—most notably, for his significant role in launching the Cleveland Clinic Lerner College of Medicine of Case Western Reserve University.

In 1982, Dr. Hundert earned his medical degree from Harvard Medical School. From 1984 through 1997, Dr. Hundert served on the faculty of Harvard Medical School. He held positions in the departments of psychiatry and medical ethics, and also served as Associate Dean of student affairs. Dr. Hundert's groundbreaking research in the area of medical education helped define professionalism and ethics in medicine on a national level. Moreover, for six consecutive years Harvard Medical School graduates voted Dr. Hundert as the ''Faculty Member Who Did the Most for His Class.''

In 1997, Dr. Hundert relocated to the University of Rochester as professor of psychiatry and medical humanities, and served as Associate Dean, then Dean of the University. Dr. Hundert has served as President of Case Western Reserve University for the past year. During this time, Dr. Hundert's leadership, expertise and exceptional interpersonal abilities has created a new sense of partnership, possibility and energy within the Cleveland medical community, which is clearly reflected through the partnership between the world-renown Cleveland Clinic and the newly created Cleveland Clinic Lerner College of Case Western Reserve University.

Mr. Speaker and Colleagues, please join me in honor and recognition of Edward H. Hundert, M.D., President of Case Western University, whose vision, vast experience and outstanding leadership have elevated the status of medical research, education and ethics within the Cleveland community and beyond—reinforcing the image of Cleveland as the core of medical innovation, advancement and discovery for individuals within our community, across the nation, and around the world.

## HONORING THE BONFILS BLOOD CENTER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an organization that has been dedicated to providing lifesaving care to the citizens of Colorado for sixty years. Bonfils Blood Center operates several community donor centers statewide, including one in Pueblo, Colorado. I would like to take this opportunity to thank the employees and donors of Bonfils Blood Center before this body of Congress and this nation.

Since 1943, Bonfils has been an integral part of the health care system in Colorado, and now serves more than ninety health care facilities across the state. When the centers first opened, Bonfils annually collected 1,600 units of blood; today the center collects nearly 200,000 units each year. Pueblo's Bonfils Center opened in 1990 and consistently supplies about ten percent of the blood collected each year in Colorado. In addition to their blood supply services, Bonfils also operates the Colorado Marrow Donor Program and Laboratories at Bonfils. This vital public service is possible only with the help of innumerable donors and local organizations, the community support Bonfils relies on to continue its long record of success.

Mr. Speaker, it is a great privilege to recognize the Bonfils Blood Center and its employees for their dedication to health care in Colorado. Hospitals and patients all over Colorado rely on Bonfils for a safe and adequate blood supply, a service Bonfils has effectively delivered for six decades. It is my distinct pleasure to honor that record of success today.

## RENEWABLE ENERGY IN AMERICA

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. PORTER. Mr. Speaker, I rise today to address the importance of renewable energy in America. America's energy consumption is at an all time high and rising. In order to address the imbalance between consumption and domestic production, one part of the solution is to continue the advances in research and development of renewable energy resources.

In my home state of Nevada, the sun shines more than 300 days out of the year. We are also blessed with an abundant amount of other renewable energy sources such as geothermal, wind and biomass. Nevada is a perfect laboratory for renewable energy research.

We also can boast that we have one of the top research centers in the country for renewable energy. Since the 1970's, The Desert Research Institute or DRI has been actively researching ways to put renewable resources to better use, especially for commercial use. In the past, DRI has conducted solar energy research by developing a facility where it was completely cooled and heated by solar energy.

At the present time, DRI scientists and engineers are developing a solar and wind powered system that produces hydrogen for a fuel cell with excess renewable energy so that continuous power can be provided for off-grid sites. These fuel cells also potentially would power hydrogen fuel cell cars. This technology is a cornerstone in President Bush's national energy plan.

Because the research being conducted in Nevada, it will not only have an impact in my home state, but will also impact all Americans in the long term from having a more secure and environmentally sustainable mix of energy sources.

## POSTAL CIVIL SERVICE RETIREMENT SYSTEM FUNDING REFORM ACT OF 2003

SPEECH OF

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 8, 2003*

Mr. TOWNS. Mr. Speaker, I rise in support of S. 380, the Postal Civil Service Retirement System Funding Reform Act of 2003. I'd like to recognize Chairman DAVIS, Ranking Member WAXMAN and Representatives MCHUGH and DAVIS for their fine work on this issue.

I am a cosponsor of H.R. 735, the House companion. This is an important bill that deserves the support of the entire House. If we fail to act, the Postal Service has warned that it will be forced to raise rates as early as this fall. This is something the public can not afford.

If the Postal Service continues to pay into the Civil Service Retirement System under the current rate structure, the Postal Service will overfund the system by about $71 billion by the time its pension obligations expire in 2071. This bill gives the Postal Service credit for its excess assets and thus, reduces the amount of money that it needs to pay into the fund. This will have no effect on current or future retirees' pension benefits. In fact, the bill is strongly supported by the National Association of Letter Carriers and the business community.

The savings realized from the bill will allow the postal service to make needed upgrades to improve service. Additionally, the Postmaster has also promised to keep rates steady through 2006.

This bill is a complete slam dunk. It is good for the public, the letter carriers, and the mailing industry. I urge its passage.

## IN HONOR OF ERIC J. TOPOL, M.D.

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Eric J. Topol, M.D.—Chief Academic Officer of the Cleveland Clinic Foundation, Chairman of the Department of Cardiovascular Medicine at the Cleveland Clinic Foundation and Provost and Professor of Medicine at the Cleveland Clinic Lerner College of Medicine of Case Western Reserve University—as he is recognized by the American Heart Association for his leadership, achievement and vision that has placed Cleveland at the national and international summit of hope, possibility and success within the realm of cardiovascular treatment and research.

In collaboration with Dr. Edward H. Hundert and other medical visionaries, Dr. Topol helped shape the Cleveland Clinic Lerner College of Medicine of CWRU. This center of advancement, research and education in medicine promises to reflect the crowning achievements, breakthroughs and medical miracles that hold the cardiology program at the Cleveland Clinic Foundation as the nation's premier heart center. The Cleveland Clinic Lerner College of Medicine promises to delve into critical research and groundbreaking treatment programs without losing the humanity and sensitivity critical to successful patient care.

Since graduating from the University of Rochester School of Medicine in 1979, Dr. Topol's life's work has focused on the prevention, detection, treatment and research of cardiovascular disease. Dr. Topol's collaborative cardiology research, work, and remarkable achievements in cardiovascular medicine has improved the state of cardiac care for countless individuals of all ages, and has steadily raised the Cleveland community to the highest levels of technological and medical advancement—in the eyes of the nation, in the eyes of the world, and within every being whose heart needs mending.

Mr. Speaker and Colleagues, please join me in honor and recognition of Eric J. Topol, M.D., whose leadership, foresight, and total commitment for the advancement of medicine has helped Cleveland earn international acclaim as the leading center of heart research and treatment—offering hope and healing for heart patients here in Cleveland, and around the globe.

## TRIBUTE TO SARAH PEACOCK

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to a young student from my district, Sarah Peacock from Montrose, Colorado. A fifth grader at Oak Grove elementary school, Sarah is making a big difference for children around the world with her quilting skills, and today I would like to honor her accomplishments before this body of Congress and this nation.

Instead of asking for presents for her tenth birthday, Sarah asked for quilting supplies. With those supplies she has made six blankets for Project Linus, a volunteer organization that provides blankets to children who are either seriously ill or who are emotionally traumatized. Sarah's blankets are among the more than 400,000 security blankets Project Linus has shipped around the world since 1995. Sarah heard about the project from a teacher at her elementary school who was teaching her kindergarten class about quilting and with that introduction, Sarah took to the craft immediately. Along the way, her blankets have earned grand champion honors at the Montrose County Fair and fourth place at the Colorado State Fair.

Mr. Speaker, Sarah Peacock is clearly a determined and gifted young woman. Even at such a young age, her volunteer efforts are reaching children around the world, and it is my great honor to recognize her hard work before this body of Congress and this nation today. Sarah has great things ahead of her, and I wish her every success in the future.

## WE SHOULD MAKE OUR REMARKS WITH CARE

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. KIRK. Mr. Speaker, with regard to the remarks of our colleague, Ms. CUBIN, today, I want to express my lack of support for their tone and substance. In this temple of democracy, we should make our arguments with care and concern for the feelings of all Americans.

## TRIBUTE TO PRIVATE JESSICA LYNCH ON NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. RAHALL. Mr. Speaker, I rise today to pay tribute to America's heroes on National Former Prisoner of War Recognition Day.

The holiday is all the more poignant this year. This year the world celebrated the rescue of POW Private Jessica Lynch from an Iraqi hospital. This brave West Virginia woman fought capture as she watched her comrades die next to her. West Virginians are especially proud of the rescue of one of our own and proud of the troops, including some of West Virginia's own National Guard, who went in to save her. We are particularly grateful of West Virginia Air National Guard Major Harry Morgan Freeman Jr. of Chapmanville who helped deliver the SEALs to the hospital where Lynch was held and then flew the group to safety. This was a truly remarkable moment for West Virginia's service men and women.

We may never know all the details of the ordeal Private Lynch endured while held in Iraqi captivity. Like so many POWs before her, not only are the physical wounds to heal but mental and spiritual. As Americans, it is our duty to welcome back these heroes who fought for our freedom. We must give all of our returned POWs the support they require and deserve and share with them our pride in their sacrifice to the Nation. We give thanks to God for the return of our POWs and ask Him to watch over our soldiers and our Nation.

## TRIBUTE TO DR. LYUSHUN SHEN

### HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. WEXLER. Mr. Speaker, for the past several years, Dr. Lyushun Shen has served as Deputy Representative of the Taipei Economic and Cultural Representative Office (''TECRO'') here in Washington. TECRO is Taiwan's unofficial embassy in the United States and works to strengthen the already strong ties between the United States and Taiwan. Dr. Shen has been an important diplomat in TECRO's ongoing mission, and he has been a prominent participant in the ongoing dialogue between the United States Congress and the Taiwanese government.

This is Dr. Shen's third posting in Washington, and, although he has developed a strong network of friends in Washington, the Taiwanese government has decided to name him as Director General of TECRO's office in Geneva, Switzerland. In his new position, Dr. Shen will work to enhance Taiwan's position with the many international organizations based there including the World Health Organization, which still does not count this vibrant democracy as a member, despite the strong endorsement of Congress.

Mr. Speaker, those of us who have come to know Dr. Shen will miss our discussions with him and his passion commitment to U.S.-Taiwan relations. While we regret he will be leaving Washington shortly, we know that he will do an excellent job in Geneva, and we wish him continued success in the years ahead.

## TRIBUTE TO BRIAN BALDWIN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize the strength and courage of Brian Baldwin of Grand Junction, Colorado. Brian is a former rodeo champion who is now fighting a rare form of cancer, and today I would like to salute his determination to fight this disease and the strength of his will in this battle.

Brian started his career as a Little Britches Rodeo Champion in Delta, Colorado, becoming the world rodeo champion in 1994. He was diagnosed with cancer last October and since then has endured surgeries, chemotherapy, radiation treatments and physical therapy. Brian, like the champion he is, has remained positive through it all with the help of family and friends. In an effort to pay for his treatment, Brian's friends and family are hosting the Brian Baldwin Benefit Rodeo and Auction in Grand Junction.

Mr. Speaker, it is a great privilege to honor Brian Baldwin and to wish him and his family the best through this difficult struggle. The support Brian has received from friends in the rodeo community and throughout the area is a testament to the respect Brian himself inspires. Brian's is indeed an inspirational story. He is truly a lucky man and certainly has the good wishes and prayers of many people in Colorado and around the country. I add my own good wishes to Brian as he continues in his fight against cancer.

## LAWRENCE CENTRAL HIGH SCHOOL—WE THE PEOPLE COMPETITION

### HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Ms. CARSON of Indiana. Mr. Speaker, I rise to commend Lawrence Central High School, Indianapolis, IN, on winning first place at the Indiana We the People: The Citizen and the Constitution state competition. Lawrence Central High School will travel to Washington, D.C. to represent the State of Indiana in the national civics competition this month.

I would like to congratulate Drew Horvath and his Competitive Government Law class students: Laura Bacallao, Loren Bondurant, Daniel Booth, Brian Boyer, Brad Cobb, Annalise Corman, Dana Courier, Kate Dobson, Sean Eagan, Kathryne Feary, Sarah Gilliland, Angela Hurd, Matt Kite, Ellen Kizik, Anna Krauter, Cassie Lomas, Regan Long, Emily Nave, Jennifer Ramage, Emily Rhodes, Lindy Rider, Ella Seet, Ilya Shulkin, Tina Spears, Joanna Stafford, Kim Tisdale, Rachel Townsend, and Audrey Veneck.

I applaud Principal Caroline Hanna and the educators of Lawrence Central High School who have developed an enriched educational program which challenges students and encourages academic achievement.

The We the People: The Citizen and the Constitution program is the most extensive educational program in the country, developed specifically to educate young people about the Constitution and the Bill of Rights. More than 1,200 students travel from across the United States to compete in the national competition held in Washington, D.C.

The national competition is modeled after hearings in the United States Congress, consisting of oral presentations by high school students before a panel of audit judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

Congratulations to Lawrence Central High School! I wish you good luck at the national competition.

## TRIBUTE TO CLINTON FAIR ON THE OCCASION OF HIS INDUCTION INTO THE UPPER PENINSULA LABOR HALL OF FAME

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. STUPAK. Mr. Speaker, I rise today to celebrate the live and achievements of Clinton Fair, who will be honored posthumously for his service to the cause of American working men and women with induction into the Upper Peninsula Labor Hall of Fame at a ceremony in Marquette, Michigan on April 26, 2003.

Clinton Fair earned degrees from Eastern Michigan University and the University of Wisconsin before taking his first job as a schoolteacher in St. Ignace, Michigan in 1931. He taught there and in Dearborn, Michigan before and after World War II. During that war, he served for five years with distinction in the U.S. Navy, leaving service as a lieutenant commander.

After the war, Clinton Fair began his career in organized labor as a delegate to the local branch of the American Federation of Teachers in association with the Detroit unit of the American Federation of Labor.

In 1947, he began working as assistant to John Reid, secretary of the Michigan Federation of Labor, and was soon named director of the Michigan Labor League's political action committee. In that capacity, he worked on the successful 1948 gubernatorial campaign of G. Mennen ''Soapy'' Williams.

After the election, Clinton served on Governor Williams's staff until 1951, when he returned to the Michigan Federation of Labor as its legislative director. In 1953, he became education director for Region 7 of the Allied Industrial Workers. From there, he rose to the national labor scene and became secretary of the American Federation of Teachers.

Over the next twenty years, Clinton Fair contributed his considerable skills to his labor brethren in many capacities, including work on the Social Security task force of the national AFL–CIO in Washington, D.C., a stint as legislative representative for the California State AFL–CIO, and a final term at the AFL–CIO national office before retiring in 1975.

Coming full circle, he moved back to St. Ignace in retirement, but for Clinton Fair, retirement was not an entirely accurate description. He continued his work on behalf of labor, handling special assignments for the Michigan and national AFL–CIO offices.

He also branched out into community service, and was elected to the Mackinac County Board of Commissioners, serving in the capacity until 1980. His death in 1982 was a severe loss to his family, his community, his colleagues and the friends he made over a lifetime of hard work and dedication to bettering the lives of working Americans.

Mr. Speaker, I ask you and my House colleagues to join me in acknowledging Clinton Fair's lifetime of contributions to organized labor and his community, and in celebrating the accomplishments that have earned him the distinction of becoming an honored member of the Upper Peninsula Labor Hall of Fame.

## EDUCATION SECRETARY RODERICK PAIGE HAS LOST CREDIBILITY

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Ms. SCHAKOWSKY. Mr. Speaker, Education Secretary Roderick Paige has lost credibility. Following his deeply troubling comments in Baptist Press proclaiming the importance of teaching Christian values in public schools, it is evident that Secretary Paige cannot be an unbiased advocate for all public school students.

I am not concerned with Secretary Paige's personal religious beliefs. Many of us were raised in religious traditions and with faith-based values that have led many of us to serve in this body—the desire to help out those in need, to care for our neighbors, and to be good members of the global community.

Secretary Paige's views, however, are offensive because they reflect on how he will undertake his Constitutional responsibility: to provide the best educational opportunities for all students in the United States. Our nation was built on the idea of separation of church and state. Article I of our great Constitution requires that there be no established religion. This was not an afterthought by the Founding Fathers—it was clearly and forcefully stated at the very outset. By expressing his preference for parochial education and criticizing public schools for not teaching religious values, Secretary Paige violated that founding principle.

Secretary Paige has forcefully described his preference for schools that have ''a strong appreciation for the values of the Christian community.'' He has described Christian schools and universities as having a ''strong value system'' that is ''not the case in a public school where there are so many different kids with different kinds of values.'' How then can the parents of children in public schools—which educate 90 percent of all children in our country—believe that Secretary Paige's bias against public education will not be reflected in his policies? How can they be assured that he will not direct funds and resources to the parochial schools to which he would prefer to send his children and away from the public schools that educate the vast majority of American children?

Clearly, Secretary Paige is refusing to embrace the diversity reflected in our public schools. In a nation that is increasingly diverse, equating good values with Christian values is disrespectful to all non-Christian believers and to all non-believers. Personal faith must never be allowed to dictate government policy.

Through his statements, Secretary Paige has shown that he cannot be relied upon to fulfill his responsibilities. He should resign voluntarily. If not, President Bush should demand his resignation.

## TRIBUTE TO FRANK CEDRONE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I take this opportunity to pay tribute to an icon of the Pueblo, Colorado community, Frank Cedrone. Frank, an accomplished pianist, died recently at the age of seventy-three and as his family and friends mourn his loss, I think it is appropriate that we remember Frank for his many contributions throughout his life.

Frank was half of a renowned piano team with Victoria Markowski, whom he met at the Boston Conservatory of Music. After a successful debut at New York's Carnegie Hall and numerous tours, the couple joined then-Southern Colorado State College in Pueblo as artists-in-residence. Frank taught at the College, gave private piano lessons, led workshops, published articles, and continued his touring schedule. He served as executive director of the Pueblo Symphony for five years and was past president of the Colorado State Music Teachers Association. He retired from USC in 1999, and released a CD album the next year.

Mr. Speaker, it is with profound sadness that we honor the life and memory of Frank Cedrone. He was the recipient of numerous honors and awards, but will be remembered most for the generous way in which he shared his talents throughout his life. As family and friends mourn his passing, I would like to recognize the wonderful life Frank lived and the enjoyment his music brought to people throughout Colorado.

## IN HONOR OF THE OHIO PUBLIC INTEREST RESEARCH GROUP

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 9, 2003*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Ohio Public Interest Research Group (PIRG), as they celebrate thirty years with PIRG's across the nation of unwavering crusades to reclaim and purify our nation's air, land and waterways.

Like the PIRG in Ohio, these environmental groups are comprised of empowered citizens whose courageous chorus calling for a clean environment has resounded along our rivers, lakes, shores, and wetlands; their voices echo through our valleys, across our meadows and atop our mountains; and their voices rise as the day dawns, clear and bright.

For three decades, this progressive group of individuals has understood the power of collective focus, and these soldiers for our environment know that their struggle to eradicate practices and processes that destroy our environment will determine our ultimate survival as individuals, and as our world as we know it.

Mr. Speaker and Colleagues, please join me in honor and celebration of every member of the Ohio PIRG, as they celebrate thirty years of empowerment, education, awareness, action and achievement on behalf of a cleaner and safer environment, and on behalf of their vision of a world where flora, fauna and all humanity come one step closer to strike that significant balance between the advancement of humankind and the preservation of our natural environment. Moreoer, their work, lends to the vital notion that a handful of concerned citizens can restore a river and heal America's heartland—one speech, one letter, one meeting, and one law at a time. ''Never doubt that a small group of thoughtful, committed people can change the world. Indeed, it is the only thing that ever has.''—Margaret Mead.

## MOTION TO INSTRUCT CONFEREES ON H.R. 1559, EMERGENCY WARTIME SUPPLEMENTAL ACT, 2003

SPEECH OF

### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 8, 2003*

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise in strong support of the Obey motion to instruct Conferees.

Eighteen months ago terrorists used American aircraft to attack this Nation. As a consequence of those attacks, this Congress decided that aviation security should be paid for by the Federal Government because aviation security is national security.

Now is the time for us to re-enforce that commitment by reimbursing the airlines for security fees that they have already paid and by providing unemployment aid to hundreds of thousands of the industry's workers nationwide.

Aid to the Airlines in this Supplemental is necessary to stem the tremendous costs of September 11th that are continuing to be imposed on the airlines and their hard-working employees, and the even greater costs and revenue losses that are likely as the war with Iraq continues.

No other industry since 9/11 has taken on special ''security'' fees as the airline industry has.

With forecasts of 70,000 layoffs occurring due to the war in Iraq, and the likelihood of further airline bankruptcies, it is crucial that we address this emerging crisis in which airline workers have suffered unprecedented job loss and economic uncertainty. Without a strong and vibrant airline network, we will not be able to rebuild this nation so that the men and women in our military who left their jobs in the airline industry have jobs to come home to.

To not include funding for the airlines in this bill will do nothing but assure massive layoffs and furloughs.

The airlines lost $5 billion in the first Gulf War, and they will likely lose at least $10 to $12 billion in this current war.

National security is the responsibility of the entire nation, and as we engage in what will be a lengthy war with Iraq, disproportionate costs should not be imposed on an industry that happened to be the means of a terrorist attack.

I urge my colleagues to address the ongoing plight of the aviation industry during this time of war by supporting this motion to instruct.

## MOTION TO INSTRUCT CONFEREES ON H.R. 1559, EMERGENCY WARTIME SUPPLEMENTAL ACT, 2003

SPEECH OF

### HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 8, 2003*

Mrs. CHRISTENSEN. Madam Speaker, I rise in support of the Obey motion to instruct conferees to recede to the Senate amendment to the Emergency Supplemental bill, which would provide 26 weeks of additional temporary extended unemployment compensation for displaced airline related workers.

Mr. Speaker, I support our decision to provide assistance to the airline industry which is already a casualty of the War on Terrorism. Aviation workers fully understand the need to protect their country and workplace from future attacks. Over 150,000 aviation workers have already lost their jobs, and many of those who remain have been forced to take significant pay and benefit cuts to keep their companies afloat.

If we don't act immediately to provide emergency relief, the airlines are predicting another 70,000 job losses and even deeper cuts due to the war in Iraq. Many will no longer have the ability to pay basic living expenses. If we do nothing, workers will be forced to bear the expense of the war.

However, as we protect the airlines we must protect their workers as well. The Murray amendment in the Senate bill would assist those aviation workers who will lose their jobs by providing extended unemployment benefits, help for laid-off families to cover health care costs and job retraining assistance. To my dismay and regret, Congress after the terrorist attacks of September 11th, provided initial relief to airlines, while turning its back on relief for the workers themselves. We have the opportunity today to take another course and assist aviation workers who will likely be disproportionately affected by a war.

I urge my colleagues to support the Obey motion to instruct.

# *Daily Digest*

HIGHLIGHTS

Senate agreed to the Conference Report on S. 151, Child Abduction Prevention Act.

The House agreed to the conference report on H. Con Res. 95, Budget Resolution for FY 2004.

# Senate

## *Chamber Action*

*Routine Proceedings, pages S5103–S5136*

Measures Introduced: Thirty-eight bills and five resolutions were introduced, as follows: S. 850–887, S. Res. 117–120, and S. Con. Res. 35.

**(See next issue.)**

Measures Reported:

S. 880, to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness. (S. Rept. No. 108–37)

S. Res. 117, recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements, with a preamble.

S. 538, to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care.

S. 703, to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the ''Carl T. Curtis National Park Service Midwest Regional Headquarters Building''. **(See next issue.)**

Measures Passed:

*Clean Diamond Trade Act:* Senate passed H.R. 1584, to implement effective measures to stop trade in conflict diamonds, after agreeing to the following amendment proposed thereto: **Pages S5112–13**

Hatch (for Grassley) Amendment No. 529, in the nature of a substitute. **Pages S5112–13**

Child Abduction Prevention Act—Conference Report: By a unanimous vote of 98 yeas (Vote No. 132), Senate agreed to the conference report on S. 151, to prevent child abduction and the sexual exploitation of children, clearing the measure for the President. **Pages S5113–35 (continued next issue)**

*Lifespan Respite Care Act:* Senate passed S. 538, to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care.

**(See next issue.)**

*Posthumous Citizenship Act:* Committee on the Judiciary was discharged from further consideration of S. 783, to expedite the granting of posthumous citizenship to members of the United States Armed Forces, and the bill was then passed, after agreeing to the following amendment proposed thereto:

McConnell (for Chambliss) Amendment No. 530, to permit the Secretary of Defense or the next-of-kin to file for posthumous citizenship to noncitizens who died while in active duty service in the Armed Forces.

*Richard B. Russell National School Lunch Act Extension:* Senate passed S. 870, to amend the Richard B. Russell National School Lunch Act to extend the availability of funds to carry out the fruit and vegetable pilot program. **(See next issue.)**

*Jim Richardson Post Office:* Committee on Governmental Affairs was discharged from further consideration of H.R. 1505, to designate the facility of the United States Postal Service located at 2127 Beatties Ford Road in Charlotte, North Carolina, as the ''Jim Richardson Post Office'', and the bill was then passed, clearing the measure for the President.

**(See next issue.)**

Digital and Wireless Network Technology Program—Agreement: A unanimous-consent agreement was reached providing for consideration of S. 196, to establish a digital and wireless network technology program, at a time to be determined by the

Majority Leader, after consultation with the Democratic Leader; that there be 1 hour for debate, that there be 5 minutes from the time under majority control for Senator McCain; that the only amendments in order be the committee-reported amendments and one technical amendment to be offered by Senator Allen; and that at the expiration or yielding back of time, the amendments be adopted, the bill, as amended, be read a third time and the Senate proceed to a vote on passage of the bill. (See next issue.)

Appointments:

*John F. Kennedy Center for the Performing Arts:* The Chair, on behalf of the President of the Senate, pursuant to Public Law 85–874, as amended, appointed Senator Hutchison to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, vice Senator Reid. (See next issue.)

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaty:

Protocols to North Atlantic Treaty of 1949 on Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia (Treaty Doc. No. 108–4).

The treaty was transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. (See next issue.)

Nominations Confirmed: Senate confirmed the following nominations:

By 72 yeas 24 nays (Vote No. Ex. 133), Ross Owen Swimmer, of Oklahoma, to be Special Trustee, Office of Special Trustee for American Indians, Department of the Interior.

**Page S5136 (continued next issue)**

Barry C. Barish, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008. (Prior to this action, Committee on Health, Education, Labor and Pensions was discharged from further consideration.) **Page S5136 (continued next issue)**

Delores M. Etter, of Maryland, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008. (Prior to this action, Committee on Health, Education, Labor and Pensions was discharged from further consideration.) **Page S5136 (continued next issue)**

Daniel E. Hastings, of Massachusetts, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008. (Prior to this action, Committee on Health, Education, Labor and Pensions was discharged from further consideration.) **Page S5136 (continued next issue)**

Douglas D. Randall, of Missouri, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008. (Prior to this action, Committee on Health, Education, Labor and Pensions was discharged from further consideration.) **Page S5136 (continued next issue)**

Jo Anne Vasquez, of Arizona, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008. (Prior to this action, Committee on Health, Education, Labor and Pensions was discharged from further consideration.) **Page S5136 (continued next issue)**

Herbert Guenther, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term two years. (New Position)

Bradley Udall, of Colorado, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2006.

Malcolm B. Bowekaty, of New Mexico, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2006.

Richard Narcia, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring August 25, 2006.

Robert Boldrey, of Michigan, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring May 26, 2007.

Ricky Dale James, of Missouri, to be a Member of the Mississippi River Commission for a term of nine years. (Reappointment)

Rear Adm. Nicholas Augustus Prahl, National Oceanic and Atmospheric Administration, to be a Member of the Mississippi River Commission, under the provisions of Section 2 of an Act of Congress, approved 28 June 1879 (21 Stat. 37) (22 USC 642).

Lino Gutierrez, of Florida, to be Ambassador to Argentina.

John W. Snow, of Virginia, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; United States Governor of the African Development Fund; United States Governor of the European Bank for Reconstruction and Development.

Roland W. Bullen, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador to the Co-operative Republic of Guyana.

Eric M. Javits, of New York, for the rank of Ambassador during his tenure of service as United States Representative to the Organization for the Prohibition of Chemical Weapons.

A routine list in the Foreign Service.

**Page S5136 (continued next issue)**

Nominations Received: Senate received the following nominations:

A. Paul Anderson, of Florida, to be a Federal Maritime Commissioner for the term expiring June 30, 2007.

April H. Foley, of New York, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007.

David Hall, of Massachusetts, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005.

Peter D. Keisler, of Maryland, to be an Assistant Attorney General.

Robert Stanley Nichols, of Washington, to be an Assistant Secretary of the Treasury.

C. Stewart Verdery, Jr., of Virginia, to be an Assistant Secretary of Homeland Security. (New Position)

1 Army nomination in the rank of general.

A routine list in the Army. **Pages S5135–36**

Messages From the House: **(See next issue.)**

Measures Referred: **(See next issue.)**

Measures Placed on Calendar: **(See next issue.)**

Executive Communications: **(See next issue.)**

Petitions and Memorials: **(See next issue.)**

Executive Reports of Committees: **(See next issue.)**

Additional Cosponsors: **(See next issue.)**

Statements on Introduced Bills/Resolutions: **(See next issue.)**

Additional Statements: **(See next issue.)**

Amendments Submitted: **(See next issue.)**

Authority for Committees to Meet: **(See next issue.)**

Record Votes: Two record votes were taken today. (Total—133) **(See next issue.)**

Adjournment: Senate met at 10 a.m., and adjourned at 7:50 p.m., until 9:30 a.m., on Friday, April 11, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5135.)

# *Committee Meetings*

*(Committees not listed did not meet)*

## APPROPRIATIONS: FBI

*Committee on Appropriations:* Subcommittee on Commerce, Justice, State, and the Judiciary concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Federal Bureau of Investigation, after receiving testimony from Robert S. Mueller III, Director, Federal Bureau of Investigation, Department of Justice.

## APPROPRIATIONS: DEPARTMENT OF THE INTERIOR

*Committee on Appropriations:* Subcommittee on Interior concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Department of the Interior, after receiving testimony from Gale A. Norton, Secretary, Lynn Scarlett, Assistant Secretary for Policy, Management, and Budget, and John Trezise, Director, Office of the Budget, all of the Department of the Interior.

## APPROPRIATIONS: CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

*Committee on Appropriations:* Subcommittee on VA, HUD, and Independent Agencies concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Corporation for National and Community Service and Community Development Financial Institutions Fund, after receiving testimony from Leslie Lenkowsky, Chief Executive Officer, and Michelle Guillermin, Chief Financial Officer, both of the Corporation for National and Community Service; and Tony T. Brown, Director, Community Development Financial Institutions Fund, Department of the Treasury.

## APPROPRIATIONS: LOC

*Committee on Appropriations:* Subcommittee on the Legislative Branch concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Library of Congress and the Open World Russian Leadership Program, after receiving testimony from James H. Billington, Librarian of Congress, and Chairman of the Board of Trustees, Center for Russian Leadership Development; Donald L. Scott, Deputy Librarian of Congress; and Kenneth E. Lopez, Director of Security, Library of Congress.

## APPROPRIATIONS: HOMELAND SECURITY

*Committee on Appropriations:* Subcommittee on Homeland Security concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Homeland Security's Science and Technology Directorate, after receiving testimony from Charles E. McQueary, Under Secretary of Homeland Security for Science and Technology.

## APPROPRIATIONS: NATIONAL NUCLEAR SECURITY ADMINISTRATION

*Committee on Appropriations:* Subcommittee on Energy and Water Development concluded hearings to examine proposed budget estimates for fiscal year 2004 for the National Nuclear Security Administration, after receiving testimony from Linton F. Brooks, Acting Administrator, Kenneth E. Baker, Deputy Administrator for Defense Nuclear Nonproliferation, Everet H. Beckner, Deputy Administrator for Defense Programs, and Admiral Frank L. Bowman, USN, Deputy Administrator for Naval Reactors, all of the National Nuclear Security Administration, Department of Energy.

## NATO ENLARGEMENT

*Committee on Armed Services:* Committee concluded hearings to examine the military implications of North Atlantic Treaty Organization (NATO) enlargement, focusing on new members of NATO and its new capabilities, post-conflict Iraq, including the Iraqi economy and system of governance, after receiving testimony from Paul D. Wolfowitz, Deputy Secretary of Defense; General Peter Pace, USMC, Vice Chairman, Joint Chiefs of Staff; and General James L. Jones, USMC, Supreme Allied Commander, Europe.

## HEDGE FUNDS

*Committee on Banking, Housing, and Urban Affairs:* Committee concluded hearings to examine recent developments in Hedge Funds (an investment company that uses high-risk techniques, such as borrowing money and selling short, in an effort to make extraordinary capital gains), focusing on investor protection implications, the differences between hedge funds and investment companies, regulation under the federal securities laws, and conflicts of interest, after receiving testimony from William H. Donaldson, Chairman, U.S. Securities and Exchange Commission.

## FAA AUTHORIZATION

*Committee on Commerce, Science, and Transportation:* Committee concluded hearings to examine proposed legislation authorizing funds for the Federal Aviation Administration, after receiving testimony from Marion C. Blakey, Administrator, Federal Aviation Administration, and Read C. Van De Water, Assistant Secretary for Aviation and International Affairs, both of the Department of Transportation; and Gerald L. Dillingham, Director of Civil Aviation Issues, General Accounting Office.

## MEDIA VIOLENCE

*Committee on Commerce, Science, and Transportation:* Subcommittee on Science, Technology, and Space concluded hearings to examine neurobiological research and the impact of media violence on child health, after receiving testimony from Joanne Cantor, University of Wisconsin, Madison; Dale Kunkel, University of California Washington Center, Washington, D.C.; Michael Rich, Harvard University, Boston, Massachusetts; Daniel R. Anderson, University of Massachusetts, Amherst; and John P. Murray, Kansas State University, Manhattan.

## BUSINESS MEETING: COMPREHENSIVE ENERGY LEGISLATION

*Committee on Energy and Natural Resources:* Committee met to consider comprehensive energy legislation, focusing on provisions relating nuclear matters, but did not complete action thereon, and will meet again on Tuesday, April 29.

## ENDANGERED SPECIES ACT

*Committee on Environment and Public Works:* Subcommittee on Fisheries, Wildlife, and Water held oversight hearings to examine the designation of critical habitat under the Endangered Species Act, focusing on conservation benefits, legal implications, and economic impacts, receiving testimony from Craig Manson, Assistant Secretary of the Interior for Fish and Wildlife and Parks; Jeffrey Kightlinger, Metropolitan Water District of Southern California, Los Angeles, on behalf of the Western Urban Water Coalition; John F. Kostyack, National Wildlife Federation, Reston, Virginia; David L. Sunding, University of California, Berkeley; Craig Douglas, Smith, Robertson, Elliott, and Glenn, Austin, Texas; and William J. Snape III, Defenders of Wildlife, Washington, D.C.

Hearings recessed subject to call.

## BUSINESS MEETING: NOMINATIONS

*Committee on Foreign Relations:* Committee ordered favorably reported the nominations of Marie Sophia Aguirre, of the District of Columbia, Elizabeth F. Bagley, of the District of Columbia, Barbara McConnell Barrett, of Arizona, Charles William Evers III, of Florida, Harold C. Pachios, of Maine, and Jay T. Snyder, of New York, each to be a Member of the United States Advisory Commission on Public Diplomacy; William M. Bellamy, of California, to be Ambassador to the Republic of Kenya; Eric S. Edelman, of Virginia, to be Ambassador to the Republic of Turkey; Gregory W. Engle, of Colorado, to be Ambassador to the Togolese Republic; Ralph Frank, of Washington, to be Ambassador to the Republic of Croatia; Reno L. Harnish, of California, to be Ambassador to the Republic of Azerbaijan;

Heather M. Hodges, of Ohio, to be Ambassador to the Republic of Moldova; Helen R. Meagher La Lime, of Florida, to be Ambassador to the Republic of Mozambique; Joseph LeBaron, of Oregon, to be Ambassador to the Islamic Republic of Mauritania; Stephen D. Mull, of Virginia, to be Ambassador to the Republic of Lithuania; Wayne E. Neill, of Nevada, to be Ambassador to the Republic of Benin; Pamela J. H. Slutz, of Texas, to be Ambassador to Mongolia; Stephen M. Young, of New Hampshire, to be Ambassador to the Kyrgyz Republic; and Dennis L. Schornack, of Michigan, to be Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

NOMINATION

*Committee on Governmental Affairs:* Committee concluded hearings to examine the nomination of Peter Eide, of Maryland, to be General Counsel of the Federal Labor Relations Authority, after the nominee testified and answered questions in his own behalf.

IRAQI WAR CRIMES

*Committee on Governmental Affairs:* Committee concluded hearings to examine the 1949 Geneva Convention relative to the Protection of Prisoners of War, focusing on Department of Defense policies with respect to the current conflict with Iraq, and Iraqi violations of the Convention, after receiving testimony from Pierre-Richard Prosper, Ambassador-at-Large for War Crimes Issues, Department of State; W. Hays Parks, Special Assistant, Office of the Judge Advocate General of the Army, Department of Defense; David J. Scheffer, United Nations Association of the United States of America, New York, New York; Tom Malinowski, Human Rights Watch, Washington, D.C.; Ruth Wedgwood, Johns Hopkins University, Baltimore, Maryland.

AMERICAN HISTORY AND CIVICS EDUCATION ACT

*Committee on Health, Education, Labor, and Pensions:* Committee concluded hearings to examine S. 504, to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, after receiving testimony from Senator Byrd; Bruce Cole, Chairman, National Endowment of the Humanities; Eugene W. Hickok, Under Secretary of Education; James H. Billington, Librarian of Congress; Diane Ravitch, New York University, New York; Blanche Deaderick, University of Memphis, Tennessee; David McCullough, West Tisbury, Massachusetts; and Russell Berg, Trumbull, Connecticut.

BUSINESS MEETING

*Committee on the Judiciary:* Committee ordered favorably reported the following business items:

An original resolution (S. Res. 117) recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements; and

The nominations of Susan G. Braden, of the District of Columbia, and Charles F. Lettow, of Virginia, both to be a Judge of the United States Court of Federal Claims, and Cecilia M. Altonaga, to be United States District Judge for the Southern District of Florida.

Also, Committee began consideration of S. 274, to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, but did not complete action thereon, and recessed subject to call.

BUSINESS MEETING

*Committee on Veterans' Affairs:* Committee ordered favorably reported the nominations of Bruce E. Kasold, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims, and John W. Nicholson, of Virginia, to be Under Secretary of Veterans Affairs for Memorial Affairs.

# House of Representatives

## *Chamber Action*

Measures Introduced: Measures introduced will appear in the next issue of the Record.

Additional Cosponsors: (See next issue.)

Reports Filed: Reports were filed today as follows:

Conference report on H. Con. Res. 95, Establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (H. Rept. 108–71);

H. Res. 191, waiving points of order against the conference report to accompany H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (H. Rept. 108–72); and

H. Res. 192, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 108–73). (See next issue.)

Prosecutorial Remedies & Other Tools to end the Exploitation of Children Today (PROTECT) Act Conference Report: The House agreed to the conference report on S. 151, to amend title 18, United States Code, with respect to the sexual exploitation of children by yea-and-nay vote of 400 yeas to 25 nays with 2 voting ''present,'' Roll No. 127. **Pages H3066–76**

Agreed to H. Res. 188, the rule waiving points of order against the conference report by voice vote. **Pages H3059–66**

Suspensions: The House agreed to suspend the rules and pass the following measures:

*Fundamental Tax Reform:* Debated on April 9, H. Con. Res. 141, expressing the sense of the Congress that the Internal Revenue Code of 1986 should be fundamentally reformed to be fairer, simpler, and less costly and to encourage economic growth, individual liberty, and investment in American jobs (agreed to by yea-and-nay vote of 424 yeas with none voting ''nay'', Roll No. 128); and **Pages H3076–77**

*Support for a Lasting Settlement in Cyprus:* Debated on April 9, H. Res. 165, amended, expressing support for a renewed effort to find a peaceful, just, and lasting settlement to the Cyprus problem (agreed to by yea-and-nay vote of 422 yeas with none voting ''nay,'' Roll No. 129). **Page H3077**

*Energy Policy Act:* The House completed general debate and began considering amendments to H.R. 6, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people. Further consideration will resume at a later date. **Pages H3078–H3194 (continued next issue)**

Agreed To:

Wilson of New Mexico amendment No. 3 printed in H. Rept. 108–69 that limits the surface acreage covered by production and support facilities, including airstrips and acres covered by gravel berms or piers for support of pipelines, on the Alaska Coastal Plain to 2,000 acres (agreed to by recorded vote of 226 ayes to 202 noes, Roll No. 134); (See next issue.)

Peterson of Pennsylvania amendment No. 4 printed in H. Rept. 108–69 that makes available the Federal bonuses for oil leases derived from the Arctic Coastal Plain to the Low-Income Home Energy Assistance Program; (See next issue.)

Vitter amendment No. 6 printed in H. Rept. 108–69 that expresses the sense of Congress that the United States should reduce dependence on foreign energy sources from 58% to 45% by January 1, 2113; (See next issue.)

Tom Davis of Virginia amendment No. 7 printed in H. Rept. 108–69 that requires studies on Federal procurement and contracting policies to be submitted to all relevant Congressional committees and requires studies on the conservation implications of widespread telecommuting by Federal employees and the merits of establishing performance measures to reduce petroleum consumption by Federal fleets (agreed to by recorded vote of 415 ayes to 10 noes, Roll No. 136); (See next issue.)

Oberstar amendment No. 8 printed in H. Rept. 108–69 that authorizes a photovoltaic solar energy commercialization program for the procurement and installation of photovoltaic solar energy systems for electric production in public buildings; (See next issue.)

Nadler amendment No. 11 printed in H. Rept. 108–69 that requires the Department of Energy, in its study on the threat resulting from the theft or diversion of highly enriched uranium, to address the benefits of accelerating the purchase of excess weapons grade plutonium and uranium from Russia to reduce the likelihood that they could be stolen or sold to terrorists; (See next issue.)

Reynolds amendment No. 12 printed in H. Rept. 108–69 that requires the Secretary of Energy to transmit a plan for the transfer of the Western New York Service Center in West Valley, New York, including nuclear waste cleanup responsibilities to the Federal government; (See next issue.)

Barrett of South Carolina amendment No. 13 printed in H. Rept. 108–69 that requires the Secretary of Energy to conduct a study to determine the feasibility of developing commercial nuclear energy production facilities at existing Department of Energy sites; (See next issue.)

Blumenauer amendment No. 14 printed in H. Rept. 108–69 that establishes a Conserve by Bicycling pilot program within the Department of Transportation; authorizes ten pilot projects dispersed throughout the United States, and directs a report on the feasibility of converting motor vehicle trips to bicycle trips; (See next issue.)

Ryan of Wisconsin amendment No. 15 printed in H. Rept. 108–69 that reduces the proliferation of boutique fuels and directs EPA to give preference to plans that use either a Federal Clean Burning Gasoline (6.8 Reid Vapor Pressure) or a Low Reid Vapor Pressure (7.8 Reid Vapor Pressure) Gasoline; and

(See next issue.)

Wu amendment No. 17 printed in H. Rept. 108–69 that requires the Secretary of Energy to submit biennially a report on the equal employment opportunity practices at Department of Energy National laboratories. (See next issue.)

Rejected:

Boehlert amendment No. 1 printed in H. Rept. 108–69 that sought to require that total oil consumption for cars and light trucks in 2010 shall be at least 5% less than the total amount that would have been used if the average fuel economy standards were to remain at 2004 levels (rejected by recorded vote of 162 ayes to 268 noes, Roll No. 132);

(See next issue.)

Dingell amendment No. 2 printed in H. Rept. 108–69 that sought to substitute Division A, Energy and Commerce, Title VI, Electricity provisions and provide the Federal Energy Regulatory Commission (FERC) with anti-fraud authority for both electricity and natural gas markets; establishes audit trail requirements to improve FERC's ability to conduct investigations and take enforcement actions; provides for greater transparency by requiring reports on sales or transmissions of electricity or gas; increases penalties for civil and criminal offenses; requires energy policy rate reforms; authorizes refunds for overcharges back to the date they commenced, and directs the SEC to review Public Utility Holding Company (PUHCA) exemptions (rejected by recorded vote of 193 ayes to 237 noes, Roll No. 133);

(See next issue.)

Markey amendment No. 5 printed in H. Rept. 108–69 that strikes Division C, Resources, Title IV, Arctic Coastal Plain Domestic Energy Security Act that allows oil drilling in the Arctic National Wildlife Refuge (rejected by a recorded vote of 197 ayes to 228 noes, Roll No. 135); (See next issue.)

Brown of Ohio amendment No. 9 printed in H. Rept. 108–69 that sought to authorize a Gasoline Availability Stabilization (GAS) Reserve program with a total capacity of 20 million barrels of regular unleaded gasoline with reserve sites in California, the Midwest, the Northeast, and two additional sites as identified by the Secretary of Energy (rejected by recorded vote of 173 ayes to 252 noes, Roll No. 137); and (See next issue.)

Udall of New Mexico amendment No. 10 printed in H. Rept. 108–69 that sought to strike section 14029 that authorizes $10 million for special demonstration projects for the uranium mining industry to develop improved in situ leaching mining technologies including environmental restoration technologies that may be applied to sites after completion of in situ leaching operations (rejected by recorded vote of 193 ayes to 231 noes, Roll No. 138).

(See next issue.)

Proceedings Postponed:

Schakowsky amendment No. 16 printed in H. Rept. 108–69 was offered that expresses the sense of Congress that the Department of Energy should develop and implement more stringent inventory and procurement controls, including controls on the purchase card program and the Department's Inspector General should continue to review purchase card and other procurement and inventory practices. Further proceedings on the amendment were postponed.

(See next issue.)

Agreed to H. Res. 189, the rule that provided for consideration of the bill by recorded vote of 236 ayes to 190 noes, Roll No. 131. Earlier, agreed to order the previous question by yea-and-nay vote of 226 yeas to 202 nays, Roll No. 130. Pages H3086–87

FY 2004 Budget Resolution Conference Report: The House agreed to H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 by yea-and-nay vote of 216 yeas to 211 nays, Roll No. 141. Pages H3194–H3230

House agreed to H. Res. 191, the rule that waived points of order against the conference by yea-and-nay vote of 221 yeas to 202 nays, Roll No. 140.

(See next issue.)

Earlier agreed to H. Res. 190, waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against resolutions reported from the Rules Committee on the legislative day of April 10, 2003, providing for consideration or disposition of the budget resolution conference report by yea-and-nay vote of yeas to nays, Roll No. 139.

(See next issue.)

Senate Messages: Message received from the Senate today appears on page H3055.

Referral: S. Con. Res. 31 was referred to the Committee on International Relations.

Quorum Calls—Votes: Seven yea-and-nay votes and eight recorded votes developed during the proceedings of the House today and appear on pages H3075–76, H3076–77, H3077, H3086, H3087 (continued next issue). There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 2:48 a.m. on Friday, April 11.

# Committee Meetings

## FARM BILL IMPLEMENTATION; AGRICULTURE ASSISTANCE

*Committee on Agriculture:* Subcommittee on General Farm Commodities and Risk Management held a hearing on implementation of the 2002 Farm bill and 2003 Agriculture Assistance. Testimony was heard from J.B. Penn, Under Secretary, Farm and Foreign Agricultural Services, USDA.

## COMMERCE, JUSTICE, STATE AND THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Commerce, Justice, State and the Judiciary and Related Agencies continued appropriation hearings. Testimony was heard from Members of Congress.

## HOMELAND SECURITY APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Homeland Security held a hearing on Science and Technology. Testimony was heard from Charles McQueary, Under Secretary, Science and Technology Directorate, Department of Homeland Security.

The Subcommittee also held a hearing on the U.S. Coast Guard. Testimony was heard from Adm. Thomas H. Collins, USCG, Commandant, U.S. Coast Guard, Department of Homeland Security.

## LABOR, HEALTH AND HUMAN SERVICES AND RELATED AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Labor, Health and Human Services and Related Agencies held a hearing on Secretary of Labor. Testimony was heard from Elaine L. Chao, Secretary of Labor.

## TRANSPORTATION AND TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Transportation and Treasury, and Independent Agencies, on Passenger Rail (Panel). Testimony was heard from Michael P. Jackson, Deputy Secretary, Department of Transportation; David L. Gunn, President and Chief Executive Officer, Amtrak; and a public witness.

## VA, HUD AND INDEPENDENT AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on VA, HUD and Independent Agencies held a hearing on NSF. Testimony was heard from Rita R. Colwell, Director, NSF.

## IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT

*Committee on Education and the Workforce:* Ordered reported, as amended, H.R. 1350, Improving Education Results for Children With Disabilities Act of 2003.

## EFFECTIVENESS OF STATE REGULATION: WHY SOME CONSUMERS CAN'T GET INSURANCE

*Committee on Financial Services:* Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, hearing entitled ''The Effectiveness of State Regulation: Why Some Consumers Can't Get Insurance.'' Testimony was heard from Ernst Csiszar, Director, Department of Insurance, State of South Carolina; and public witnesses.

## NATION'S CAPITAL—EMERGENCY READINESS

*Committee on Government Reform:* Held a hearing entitled ''Are We Ready for Prime Time? Assessing the State of Emergency Readiness in the Nation's Capital.'' Testimony was heard from Michael Byrne, Director, Office of National Capital Region Coordination, Department of Homeland Security; Van Harp, Director, Washington Field Office, FBI, Department of Justice; Teresa Chambers, Chief, U.S. Park Police, National Park Service, Department of the Interior; Mark Warner, Governor, State of Virginia; the following officials of the District of Columbia: Anthony Williams, Mayor; and Charles Ramsey, Chief, Metropolitan Police Department; Richard White, General Manager, Washington Metropolitan Area Transit Authority; and public witnesses.

## BALKANS—ASSESSING PROGRESS

*Committee on International Relations:* Subcommittee on Europe held a hearing on The Balkans: Assessing the Progress and Looking to the Future. Testimony was heard from public witnesses.

## OVERSIGHT—HOMELAND SECURITY DEPARTMENT TRANSITION

*Committee on the Judiciary:* Subcommittee on Immigration, Border Security, and Claims held an oversight hearing on ''Department of Homeland Security Transition: Bureau of Immigration and Customs Enforcement.'' Testimony was heard from Asa Hutchinson, Under Secretary, Border and Transportation Security, Department of Homeland Security; Rich Stana, Director, Homeland Security and Justice Issues, GAO; and public witnesses.

## SIKES ACT REAUTHORIZATION ACT

*Committee on Resources:* Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on

H.R. 1497, Sikes Act Reauthorization Act of 2003. Testimony was heard from Raymond F. DuBois, Deputy Under Secretary, Installations and Environment, Department of Defense; Benjamin N. Tuggle, Chief, Division of Federal Program Activities, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

## FY 2004 BUDGET RESOLUTION CONFERENCE REPORT

*Committee on Rules:* Granted, by a vote of 8 to 4, a rule waiving all points of order against the conference report to accompany H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, and against its consideration. The rule provides that the conference report shall be considered as read. Finally, the rule provides one hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. Testimony was heard from chairman Nussle and Representative Spratt.

## SAME DAY CONSIDERATION WARTIME SUPPLEMENTAL—CONFERENCE REPORT

*Committee on Rules:* Granted, by voice vote, a resolution waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The resolution applies the waiver to any special rule reported on the legislative day of Friday, April 11, 2003, providing for consideration or disposition of a conference report to accompany H.R. 1559, making emergency wartime supplemental appropriations for the fiscal year ending September 30, 2003.

## TRANSPORTATION RESEARCH AND DEVELOPMENT

*Committee on Science:* Subcommittee on Environment, Technology, and Standards held a hearing on Transportation Research and Development: Investing in the Future. Testimony was heard from Emil Frankel, Assistant Secretary, Transportation Policy, Department of Transportation; Kate Siggerud, Acting Director, Physical Infrastructure Team, GAO; Eric E. Harm, Deputy Director, Division of Highways, Department of Transportation, State of Illinois; and public witnesses.

## VETERAN'S LEGISLATION

*Committee on Veterans' Affairs:* Subcommittee on Benefits held a hearing on the following bills: H.R. 241, Veterans Beneficiary Fairness Act of 2003; H.R. 533, Agent Orange Veterans' Disabled Children's Benefits Act of 2003; H.R. 761, Disabled Servicemembers Adapted Housing Assistance Act of 2003; H.R. 850, Former Prisoners of War Special Compensation Act of 2003; H.R. 966, Disabled Veterans' Return-to-Work Act of 2003; and H.R. 1048, Disabled Veterans Adaptive Benefits Improvement Act of 2003. Testimony was heard from Representative Simpson; the following officials of the Department of Veterans Affairs: Daniel L. Cooper, Under Secretary, Benefits; and Ronald J. Henke, Director, Compensation and Pension Service, both with the Veterans Benefits Administration; and John H. Thompson, Deputy General Counsel; and representatives of veterans organizations.

## OVERSIGHT—MEDICAL AND PROSTHETIC RESEARCH PROGRAMS

*Committee on Veterans' Affairs:* Subcommittee on Health held an oversight hearing on medical and prosthetic research programs in the Department of Veterans Affairs. Testimony was heard from Representative Langevin; the following officials of the Department of Veterans Affairs: Nelda P. Wray, M.D., Chief Research and Development Officer, Office of Research and Development, Veterans Health Administration; Mindy Aisen, M.D., Director, Rehabilitation Research and Development; John G. Demakis, M.D., Director, Health Sciences Research and Development; and Fred S. Wright, M.D., Associate Chief of Staff, Research, VA Healthcare System, State of Connecticut; and Kevin C. Dellsperger, M.D., Chief of Staff, Associate Dean, Veterans Affairs, VA Medical Center, Iowa City, Iowa; and public witnesses.

## MEDICAL EDUCATION PROGRAM

*Committee on Veterans' Affairs:* Subcommittee on Oversight and Investigations held a hearing on VA's progress in the development of the medical education program mandated by Section 3 of the Department of Veterans Affairs Emergency Preparedness Act of 2002. Testimony was heard from Robert H. Roswell, Under Secretary, Health, Department of Veterans Affairs; Jerome M. Hauer, Acting Assistant Secretary, Office of Public Health Emergency Preparedness, Department of Health and Human Services; Eric Tolbert, Director, Preparedness, Emergency Preparedness and Response Directorate, Department of Homeland Security; Col. Maria Morgan, USAF, Deputy Adjutant General, National Guard, State of New Jersey; and public witnesses.

## UNEMPLOYMENT BENEFITS AND "RETURNS TO WORK"

*Committee on Ways and Means:* Subcommittee on Human Resources held a hearing on Unemployment

Benefits and ''Returns to Work.'' Testimony was heard from public witnesses.

# *Joint Meetings*

## MEDICARE

*Joint Economic Committee:* Committee concluded joint hearings to examine Medicare, focusing on the 2003 Medicare Trustees Report, the long-term financial viability of the program, proposals to add a prescription drug benefit, and other related reforms, after receiving testimony from Douglas Holtz-Eakin, Director, Congressional Budget Office; David M. Walker, Comptroller General of the United States, General Accounting Office; Gail R. Wilensky, Project HOPE, Millwood, Virginia; and John P. Martin, Organization for Economic Cooperation and Development, and Marilyn Moon, Urban Institute, both of Washington, D.C.

## COMMITTEE MEETINGS FOR FRIDAY, APRIL 11, 2003

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on the Judiciary:* business meeting to consider pending calendar business, 10 a.m., SD–226.

*Next Meeting of the* SENATE

9:30 a.m., Friday, April 11

Senate Chamber

Program for Friday: After the transaction of any morning business (not to extend beyond 10 a.m.), Senate may consider the conference report on H. Con. Res. 95, Congressional Budget Resolution, the conference report on H.R. 1559, Emergency Wartime Supplemental, S. 196, Digital and Wireless Network Technology Program Act, and S. 15, Biodefense Improvement and Treatment for America Act.

Also, Senate will proceed to consideration of the nomination of Jeffrey S. Sutton, of Ohio, to be United States Circuit Judge for the Sixth Circuit, at a time determined by the Majority Leader, after consultation with the Democratic Leader.

*Next Meeting of the* HOUSE OF REPRESENTATIVES

10 a.m., Friday, April 11

House Chamber

Program for Friday: Complete Consideration of H.R. 6, Energy Policy Act of 2003 (structured rule, 90 minutes of debate); and

Consideration of the conference report on H.R. 1559, Emergency Wartime Supplemental Appropriations (subject to a rule).

## Extensions of Remarks, as inserted in this issue

HOUSE



*(Senate and House proceedings for today will be continued in the next issue of the Record.)*

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